

Annual Administrative Code Supplement
2007 Edition

DEPARTMENT OF COMMUNITY HEALTH
OFFICE OF THE DIRECTOR
DELAYED REGISTRATION OF BIRTHS

R 326.1
Source: 1997 AACS.

R 326.2
Source: 1997 AACS.

R 326.3
Source: 1997 AACS.

R 326.4
Source: 1997 AACS.

R 326.5
Source: 1997 AACS.

DISTRICT AND COUNTY HEALTH DEPARTMENTS

PART 1. SERVICES

R 327.1
Source: 1997 AACS.

R 327.2
Source: 1997 AACS.

R 327.3
Source: 1997 AACS.

R 327.4
Source: 1997 AACS.

R 327.5
Source: 1997 AACS.

R 327.6
Source: 1997 AACS.

R 327.7
Source: 1997 AACS.

R 327.8
Source: 1997 AACS.

R 327.9
Source: 1997 AACS.

R 327.10
Source: 1997 AACS.

PART 2. PERSONNEL CLASSIFICATION AND QUALIFICATIONS

Annual Administrative Code Supplement
2007 Edition

R 327.47
Source: 1997 AACS.

DIRECTOR OF COMMUNITY HEALTH
GENERAL RULES

R 330.20
Source: 1997 AACS.

R 330.21
Source: 1997 AACS.

R 330.30
Source: 1997 AACS.

R 330.31
Source: 1997 AACS.

R 330.32
Source: 1997 AACS.

R 330.33
Source: 1997 AACS.

R 330.34
Source: 1997 AACS.

R 330.35
Source: 1997 AACS.

R 330.36
Source: 1997 AACS.

R 330.37
Source: 1997 AACS.

R 330.40
Source: 1997 AACS.

R 330.41
Source: 1997 AACS.

R 330.42
Source: 1997 AACS.

R 330.43
Source: 1997 AACS.

R 330.44
Source: 1997 AACS.

R 330.45
Source: 1997 AACS.

R 330.46
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.47
Source: 1997 AACS.

R 330.48
Source: 1997 AACS.

R 330.50
Source: 1997 AACS.

R 330.51
Source: 1997 AACS.

R 330.52
Source: 1997 AACS.

R 330.53
Source: 1997 AACS.

R 330.54
Source: 1997 AACS.

R 330.55
Source: 1997 AACS.

R 330.56
Source: 1997 AACS.

R 330.60
Source: 1997 AACS.

R 330.61
Source: 1997 AACS.

R 330.62
Source: 1997 AACS.

R 330.63
Source: 1997 AACS.

R 330.64
Source: 1997 AACS.

R 330.70
Source: 1997 AACS.

R 330.80
Source: 1997 AACS.

R 330.81
Source: 1997 AACS.

R 330.82
Source: 1997 AACS.

R 330.83
Source: 1997 AACS.

R 330.84
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.90
Source: 1997 AACS.

R 330.91
Source: 1997 AACS.

R 330.92
Source: 1997 AACS.

R 330.93
Source: 1997 AACS.

R 330.94
Source: 1997 AACS.

R 330.95
Source: 1997 AACS.

R 330.96
Source: 1997 AACS.

R 330.97
Source: 1997 AACS.

R 330.98
Source: 1997 AACS.

R 330.99
Source: 1997 AACS.

R 330.100
Source: 1997 AACS.

R 330.101
Source: 1997 AACS.

R 330.102
Source: 1997 AACS.

R 330.103
Source: 1997 AACS.

R 330.104
Source: 1997 AACS.

R 330.105
Source: 1997 AACS.

R 330.106
Source: 1997 AACS.

R 330.107
Source: 1997 AACS.

R 330.108
Source: 1997 AACS.

R 330.109
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.111
Source: 1997 AACS.

R 330.112
Source: 1997 AACS.

R 330.113
Source: 1997 AACS.

R 330.114
Source: 1997 AACS.

R 330.115
Source: 1997 AACS.

R 330.116
Source: 1997 AACS.

R 330.117
Source: 1997 AACS.

HEALTH LEGISLATION AND POLICY DEVELOPMENT

GENERAL RULES

PART 1. DEPARTMENT OF MENTAL HEALTH

SUBPART 1. GENERAL PROVISIONS

R 330.1001
Source: 1998-2000 AACS.

R 330.1005
Source: 1983 AACS.

R 330.1010
Source: 1997 AACS.

R 330.1017
Source: 1981 AACS.

R 330.1019
Source: 1983 AACS.

SUBPART 2. COMMUNITY MENTAL HEALTH CENTERS

R 330.1025
Source: 1981 AACS.

SUBPART 3. MENTAL RETARDATION FACILITIES

R 330.1075
Source: 1997 AACS.

**SUBPART 4. LICENSING AND REGULATION OF MENTAL HEALTH HOSPITALS, PSYCHIATRIC
FACILITIES, AND PSYCHIATRIC UNITS**

R 330.1201

Annual Administrative Code Supplement
2007 Edition

Source: 1988 AACS.

R 330.1210

Source: 1984 AACS.

R 330.1214

Source: 1990 AACS.

R 330.1239

Source: 1990 AACS.

R 330.1243

Source: 1990 AACS.

R 330.1255

Source: 1986 AACS.

R 330.1265

Source: 1981 AACS.

R 330.1269

Source: 1983 AACS.

R 330.1275

Source: 1990 AACS.

R 330.1276

Source: 1988 AACS.

R 330.1281

Source: 1986 AACS.

R 330.1285

Source: 1986 AACS.

R 330.1287

Source: 1986 AACS.

R 330.1289

Source: 1986 AACS.

R 330.1291

Source: 1986 AACS.

SUBPART 5. FOSTER CARE CONTRACT REVOCATION

R 330.1401

Source: 1997 AACS.

SUBPART 6. FAMILY SUPPORT SUBSIDY PROGRAM

R 330.1601

Source: 2004 AACS.

R 330.1606

Source: 2004 AACS.

R 330.1607

Annual Administrative Code Supplement
2007 Edition

Source: 1990 AACS.

R 330.1611

Source: 1984 AACS.

R 330.1613

Source: 1984 AACS.

R 330.1616

Source: 1984 AACS.

R 330.1621

Source: 1990 AACS.

R 330.1626

Source: 1990 AACS.

R 330.1631

Source: 1984 AACS.

R 330.1636

Source: 1984 AACS.

R 330.1641

Source: 1984 AACS.

R 330.1643

Source: 1984 AACS.

R 330.1646

Source: 1984 AACS.

R 330.1651

Source: 1984 AACS.

R 330.1656

Source: 2003 AACS.

**SUBPART 7. PLACEMENT OF ADULTS WHO HAVE A MENTAL ILLNESS OR A DEVELOPMENTAL
DISABILITY INTO COMMUNITY-BASED DEPENDENT LIVING SETTINGS**

R 330.1701

Source: 1996 AACS.

R 330.1702

Source: 1996 AACS.

R 330.1703

Source: 1996 AACS.

R 330.1704

Source: 1996 AACS.

**SUBPART 8. CERTIFICATION OF SPECIALIZED PROGRAMS OFFERED IN ADULT FOSTER CARE HOME
TO CLIENTS WITH MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY**

R 330.1801

Source: 1996 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.1802
Source: 1996 AACS.

R 330.1803
Source: 1996 AACS.

R 330.1804
Source: 1996 AACS.

R 330.1805
Source: 1996 AACS.

R 330.1806
Source: 1996 AACS.

R 330.1807
Source: 1996 AACS.

R 330.1808
Source: 1996 AACS.

R 330.1809
Source: 1996 AACS.

PART 2. COUNTY COMMUNITY MENTAL HEALTH SERVICES PROGRAMS

SUBPART 1. COMMUNITY MENTAL HEALTH SERVICES

R 330.2005
Source: 1986 AACS.

R 330.2006
Source: 1983 AACS.

R 330.2007
Source: 1986 AACS.

R 330.2012
Source: 1981 AACS.

R 330.2013
Source: 1984 AACS.

R 330.2014
Source: 1986 AACS.

R 330.2022
Source: 1986 AACS.

SUBPART 2. COMMUNITY MENTAL HEALTH BOARD REPORTS

R 330.2038
Source: 1986 AACS.

R 330.2039
Source: 1986 AACS.

SUBPART 4. COMMUNITY MENTAL HEALTH BOARD

Annual Administrative Code Supplement
2007 Edition

R 330.2067
Source: 1986 AACS.

R 330.2071
Source: 1986 AACS.

SUBPART 5. COMMUNITY MENTAL HEALTH DIRECTOR

R 330.2081
Source: 1990 AACS.

SUBPART 6. CHILDREN'S DIAGNOSTIC AND TREATMENT SERVICE

R 330.2105
Source: 1990 AACS.

R 330.2110
Source: 1990 AACS.

R 330.2115
Source: 1990 AACS.

R 330.2120
Source: 1990 AACS.

R 330.2125
Source: 1990 AACS.

R 330.2130
Source: 1990 AACS.

R 330.2135
Source: 1997 AACS.

SUBPART 7. CERTIFICATION PROCESS

R 330.2701
Source: 1997 AACS.

R 330.2702
Source: 1997 AACS.

R 330.2703
Source: 1997 AACS.

SUBPART 8. CERTIFICATION STANDARDS

R 330.2801
Source: 1997 AACS.

R 330.2802
Source: 1997 AACS.

R 330.2803
Source: 1997 AACS.

R 330.2804
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.2805
Source: 1997 AACS.

R 330.2806
Source: 1997 AACS.

R 330.2807
Source: 1997 AACS.

R 330.2808
Source: 1997 AACS.

R 330.2809
Source: 1997 AACS.

R 330.2810
Source: 1997 AACS.

R 330.2811
Source: 1997 AACS.

R 330.2812
Source: 1997 AACS.

R 330.2813
Source: 1997 AACS.

R 330.2814
Source: 1997 AACS.

PART 3. STATE AND COUNTY FINANCIAL RESPONSIBILITY

R 330.3010
Source: 1997 AACS.

R 330.3017
Source: 1986 AACS.

**PART 4. ADMINISTRATIVE ACTION FOR MENTALLY ILL PERSONS REQUIRING TREATMENT AND
THOSE DEEMED CLINICALLY SUITABLE FOR HOSPITALIZATION**

SUBPART 1. DESIGNATED HOSPITALS

R 330.4005
Source: 1997 AACS.

R 330.4008
Source: 1997 AACS.

SUBPART 2. TRANSFER REQUIREMENTS

R 330.4011
Source: 1986 AACS.

R 330.4013
Source: 1986 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.4015
Source: 1997 AACS.

SUBPART 3. ADMISSION CONDITIONS

R 330.4025
Source: 1997 AACS.

R 330.4028
Source: 1997 AACS.

R 330.4033
Source: 1997 AACS.

R 330.4035
Source: 1997 AACS.

R 330.4039
Source: 1981 AACS.

R 330.4043
Source: 1997 AACS.

R 330.4045
Source: 1986 AACS.

R 330.4047
Source: 1986 AACS.

R 330.4049
Source: 1986 AACS.

R 330.4059
Source: 1997 AACS.

SUBPART 4. PERIODIC REVIEW

R 330.4065
Source: 1997 AACS.

R 330.4067
Source: 1997 AACS.

SUBPART 5. RELEASE AND DISCHARGE

R 330.4075
Source: 1997 AACS.

R 330.4077
Source: 1990 AACS.

R 330.4081
Source: 1997 AACS.

R 330.4083
Source: 1990 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.4086
Source: 1997 AACS.

R 330.4091
Source: 1997 AACS.

R 330.4093
Source: 1997 AACS.

R 330.4095
Source: 1997 AACS.

PART 4A. CIVIL ADMISSION AND DISCHARGE PROCEDURES FOR EMOTIONALLY DISTURBED MINORS

SUBPART 1. GENERAL PROVISIONS

R 330.4501
Source: 1990 AACS.

R 330.4510
Source: 1997 AACS.

R 330.4512
Source: 1997 AACS.

R 330.4515
Source: 1997 AACS.

SUBPART 2. ADMISSIONS

R 330.4601
Source: 1997 AACS.

R 330.4603
Source: 1990 AACS.

R 330.4606
Source: 1997 AACS.

R 330.4611
Source: 1990 AACS.

SUBPART 3. PERIODIC REVIEW

R 330.4616
Source: 1997 AACS.

SUBPART 4. CHANGE IN STATUS OF HOSPITALIZATION

R 330.4620
Source: 1990 AACS.

R 330.4621
Source: 1997 AACS.

R 330.4626
Source: 1990 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.4631
Source: 1990 AACS.

R 330.4636
Source: 1990 AACS.

R 330.4641
Source: 1990 AACS.

R 330.4646
Source: 1990 AACS.

SUBPART 5. OBJECTION TO HOSPITALIZATION PROCESS

R 330.4651
Source: 1990 AACS.

R 330.4656
Source: 1990 AACS.

R 330.4661
Source: 1990 AACS.

**PART 5. ADMINISTRATIVE ACTION FOR DEVELOPMENTALLY DISABLED PERSONS REQUIRING CARE
AND TREATMENT**

SUBPART 1. DESIGNATED RESIDENTIAL FACILITIES

R 330.5005
Source: 1986 AACS.

R 330.5008
Source: 1997 AACS.

SUBPART 2. TRANSFER REQUIREMENTS

R 330.5011
Source: 1997 AACS.

R 330.5013
Source: 1997 AACS.

SUBPART 3. ADMISSION CONDITIONS

R 330.5025
Source: 1997 AACS.

R 330.5028
Source: 1997 AACS.

R 330.5031
Source: 1981 AACS.

R 330.5033
Source: 1983 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.5045
Source: 1997 AACS.

SUBPART 4. PERIODIC REVIEW

R 330.5065
Source: 1997 AACS.

SUBPART 5. RELEASE AND DISCHARGE

R 330.5075
Source: 1997 AACS.

R 330.5081
Source: 1997 AACS.

R 330.5083
Source: 1997 AACS.

R 330.5086
Source: 1981 AACS.

R 330.5093
Source: 1997 AACS.

R 330.5095
Source: 1997 AACS.

**PART 6. GUARDIANSHIP FOR RECIPIENTS OF MENTAL
HEALTH SERVICES**

R 330.6013
Source: 1981 AACS.

R 330.6031
Source: 1986 AACS.

PART 7. RIGHTS OF RECIPIENTS OF MENTAL HEALTH SERVICES

SUBPART 1. GENERAL PROVISIONS

R 330.7001 Definitions.

Rule 7001. As used in this part:

(a) "Abuse class I" means a nonaccidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.

(b) "Abuse class II" means any of the following:

(i) A nonaccidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to nonserious physical harm to a recipient.

(ii) The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.

(iii) Any action or provocation of another to act by an employee, volunteer, or agent of a provider that causes or contributes to emotional harm to a recipient.

(iv) An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the recipient.

(v) Exploitation of a recipient by an employee, volunteer, or agent of a provider.

(c) "Abuse class III" means verbal abuse as defined in paragraph (z) of this subdivision.

Annual Administrative Code Supplement
2007 Edition

- (d) "Act" means mental health code, 1974 PA 258, MCL 330.
- (e) "Anatomical support" means body positioning or a physical support ordered by a physical or occupational therapist for the purpose of maintaining or improving a recipient's physical functioning.
- (f) "Bodily function" means the usual action of any region or organ of the body.
- (g) "Emotional harm" means impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology or as determined by a mental health professional.
- (h) "Exploitation" means an action that involves the misappropriation or misuse of a recipient's property or funds.
- (i) "Force" means non-accidental physical contact with or physical strength exerted against the body of a recipient by an employee, volunteer, or agent of a provider that is not an approved physical management technique or that is not used to prevent the recipient from harming himself, herself, or others or from causing substantial property damage.
- (j) "Neglect class I" means either of the following:
- (i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law and/or rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to serious physical harm to or sexual abuse of a recipient.
 - (ii) The failure to report apparent or suspected abuse Class I or neglect Class I of a recipient.
- (k) "Neglect class II" means either of the following:
- (i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to nonserious physical harm or emotional harm to a recipient.
 - (ii) The failure to report apparent or suspected abuse Class II or neglect Class II of a recipient.
- (l) "Neglect class III" means either of the following:
- (i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law and/or rules, policies, guidelines, written directives, procedures, or individual plan of service that either placed or could have placed a recipient at risk of physical harm or sexual abuse.
 - (ii) The failure to report apparent or suspected abuse Class III or neglect Class III of a recipient.
- (m) "Nonserious physical harm" means physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determines could not have caused, or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his or her bodily functions.
- (n) "Physical management" means a technique used by staff to restrict the movement of a recipient by direct physical contact in order to prevent the recipient from harming himself, herself, or others or from causing substantial property damage.
- (o) "Provider" means the department, each community mental health services program, each licensed hospital, each psychiatric unit, and each psychiatric partial hospitalization program licensed under section 137 of the act, their employees, volunteers, and contractual agents.
- (p) "Psychotropic drug" means any medication administered for the treatment or amelioration of disorders of thought, mood, or behavior.
- (q) "Serious physical harm" means physical damage suffered by a recipient that a physician or registered nurse determines caused or could have caused the death of a recipient, caused the impairment of his or her bodily functions, or caused the permanent disfigurement of a recipient.
- (r) "Sexual abuse" means any of the following:
- (i) Criminal sexual conduct as defined by section 520b to 520e of 1931 PA 318, being MCL 750.520b to MCL 750.520e involving an employee, volunteer, or agent of a provider and a recipient.
 - (ii) Any sexual contact involving an employee, volunteer, or agent of a department operated hospital or center, a facility licensed by the department under section 137 of the act or an adult foster care facility and a recipient.
 - (iii) Any sexual contact between an employee, volunteer, or agent of a provider and a recipient for whom the employee, volunteer, or agent provides direct services.
- (s) "Sexual contact" means the intentional touching of the recipient's or employee's intimate parts or the touching of the clothing covering the immediate area of the recipient's or employee's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for:
- (i) Revenge.
 - (ii) To inflict humiliation.
 - (iii) Out of anger.
- (t) "Sexual harassment" means sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient.
- (u) "Therapeutic de-escalation" means an intervention, the implementation of which is incorporated in the individualized written plan of service, wherein the recipient is placed in an area or room, accompanied by staff who shall therapeutically

Annual Administrative Code Supplement
2007 Edition

engage the recipient in behavioral de-escalation techniques and debriefing as to the cause and future prevention of the target behavior.

(v) "Time out" means a voluntary response to the therapeutic suggestion to a recipient to remove himself or herself from a stressful situation in order to prevent a potentially hazardous outcome.

(w) "Treatment by spiritual means" means a spiritual discipline or school of thought that a recipient wishes to rely on to aid physical or mental recovery.

(x) "Unreasonable force" means physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient where there is no imminent risk of significant injury to the recipient, staff or others or that is any of the following:

(i) Not in compliance with approved behavior management techniques.

(ii) Not in compliance with the recipient's individual plan of service,

(iii) Used when other less restrictive measures were not attempted immediately before the use of physical management or force.

(y) "Verbal abuse" means the use of language or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten or sexually harass a recipient.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 13, Eff. Feb. 1, 1983; 1998 MR 7, Eff. July 8, 1998; 2007 MR 23, Eff. Dec. 4, 2007

R 330.7002

Source: 1998-2000 AACS.

R 330.7003

Source: 1998-2000 AACS.

R 330.7005

Source: 1998-2000 AACS.

SUBPART 2. RIGHTS OF RECIPIENTS OF MENTAL HEALTH SERVICES

R 330.7009 Civil rights.

Rule 7009. (1) A provider shall establish measures to prevent and correct a possible violation of civil rights related to the service provision. A violation of civil rights shall be regarded as a violation of recipient rights and shall be subject to remedies established for recipient rights violations.

(2) A recipient shall be permitted, to the maximum extent feasible and in any legal manner, to conduct personal and business affairs and otherwise exercise all rights, benefits, and privileges not divested or limited.

(3) An adult recipient, and a minor when state law allows consent by a minor, shall be presumed legally competent. The presumption may be rebutted only by court appointment of a guardian or exercise by a court of guardianship powers and only to the extent of the scope and duration of that guardianship. A provider shall do all of the following:

(a) Presume the recipient is legally competent if he or she does not have a guardian. A provider shall also presume a recipient with a limited guardian is legally competent in all areas which are not specifically identified as being under the control or scope of the guardian.

(b) Not institute guardianship proceedings, unless there is sufficient reason to doubt the recipient's comprehension, as provided under these rules and the policies and procedures of the provider.

(c) When a recipient's comprehension is in doubt, justification for petitioning the probate court for guardianship consideration shall be entered in the recipient's clinical record.

(d) Not petition for, or otherwise cause the filing of, a petition for guardianship of greater scope than is essential.

(e) Petition or cause a petition to be filed with the court to terminate a recipient's guardian or narrow the scope of the guardian's powers when the recipient demonstrates he or she is capable of providing informed consent.

(4) A provider shall not interfere with the right of a recipient to enter into a marriage contract or obtain or oppose a divorce.

(5) The right of a recipient to participate in the electoral process, including primaries and special and recall elections shall not be abridged. An eligible recipient, including a recipient determined to be legally incompetent, shall have the right to exercise his or her franchise, except those the legislature may exclude from the electoral process by defining mental incompetence in any statute implementing article 2, section 2 of the state constitution of 1963. Facilities shall have procedures which assure all the following:

Annual Administrative Code Supplement
2007 Edition

(a) All recipients 18 years of age or over are canvassed to ascertain their interest in registering to vote, obtaining absentee ballots, and casting ballots. The canvass shall be conducted to allow sufficient time for voter registration and acquisition of absentee ballot, or provided recipients with an opportunity to leave the premises to exercise voting privileges, or to register to vote, or a facility director may require supervisory personnel to accompany recipients and may require recipients to bear reasonable transportation costs.

(b) Arrangements with state and local election officials are made to provide voter registration and casting of ballots for interested recipients at the facility or may elect to encourage the use of absentee ballots.

(c) Facilities shall assist election officials in determining a recipient's place of residence for voting purposes.

(d) Facilities shall not prohibit a recipient from receiving campaign literature, shall permit campaigning by candidates, and may reasonably regulate the time, duration, and location of these activities. A facility director shall permit a recipient to place political advertisements in his or her personal quarters.

(6) A recipient shall be permitted access to religious services and worship on a nondiscriminatory basis. A recipient shall not be coerced into engaging in religious activity.

(7) A recipient's property or living area shall not be searched by a provider unless such a search is authorized in the recipient's plan of service or there is reasonable cause to believe that the recipient is in possession of contraband or property that is excluded from the recipient's possession by the written policies, procedures, or rules of the provider. The following conditions apply to all searches:

(a) A search of the recipient's living area or property shall occur in the presence of a witness. The recipient shall also be present unless he or she declines to be present.

(b) The circumstances surrounding the search shall be entered in the recipient's record, and shall include all the following:

(i) The reason for initiating the search.

(ii) The names of the individuals performing and witnessing the search.

(iii) The results of the search, including a description of the property seized.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 13, Eff. Feb. 1, 1983; 1984 MR 5, Eff. May 26, 1984; 1998 MR 7, Eff. July 8, 1998; 2007 MR 23, Eff. Dec. 4, 2007.

R 330.7011 Notification of rights.

Rule 7011. At the time services are first requested, a provider shall inform a recipient, his or her guardian, or other legal representative or the parent with legal custody of a minor recipient of the recipient's lawful rights in an understandable manner. If a recipient is unable to read or understand the materials provided, a provider shall make a reasonable attempt to assist the recipient in understanding the materials. A note describing the explanation of the materials and who provided the explanation shall be entered in the recipient's record.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1998 MR 7, Eff. July 8, 1998; 2007 MR 23, Eff. Dec. 4, 2007.

R 330.7012

Source: 1998-2000 AACS.

R 330.7014

Source: 1998-2000 AACS.

R 330.7017

Source: 1998-2000 AACS.

R 330.7029

Source: 1998-2000 AACS.

R 330.7032

Source: 1998-2000 AACS.

R 330.7035

Source: 1998-2000 AACS.

R 330.7037

Source: 1998-2000 AACS.

R 330.7045

Source: 1998-2000 AACS.

R 330.7046 Summary reports of extraordinary incidents.

Rule 7046. In addition to other information required to be contained in the clinical record of the recipient by statute and rule, the record shall contain a summary of any extraordinary incidents involving the recipient. The report is to be entered into the record by a staff member who has personal knowledge of the extraordinary incident. An incident or peer review report generated pursuant to MCL 330.1143a does not constitute a summary report as intended by this section and shall not be maintained in the clinical record of a recipient.

History: 1998 MR 7, Eff. July 8, 1998; 2007 MR 23, Eff. Dec. 4, 2007.

R 330.7051

Source: 1998-2000 AACS.

SUBPART 3. ADDITIONAL RIGHTS OF RESIDENTS OF FACILITIES

R 330.7125

Source: 1998-2000 AACS.

R 330.7131

Source: 1997 AACS.

R 330.7135

Source: 1998-2000 AACS.

R 330.7139

Source: 1998-2000 AACS.

R 330.7142

Source: 1998-2000 AACS.

R 330.7145

Source: 1998-2000 AACS.

R 330.7151

Source: 1998-2000 AACS.

R 330.7158 Medication.

Rule 7158. (1) A provider shall only administer medication at the order of a physician and in compliance with the provisions of section 719 of the act, if applicable.

(2) A provider shall assure that medication use conforms to federal standards and the standards of the medical community.

(3) A provider shall not use medication as punishment, for the convenience of the staff, or as a substitute for other appropriate treatment.

(4) A provider shall review the administration of a psychotropic medication periodically as set forth in the recipient's individual plan of service and based upon the recipient's clinical status.

(5) If an individual cannot administer his or her own medication, a provider shall ensure that medication is administered by or under the supervision of personnel who are qualified and trained.

(6) A provider shall record the administration of all medication in the recipient's clinical record.

(7) A provider shall ensure that medication errors and adverse drug reactions are immediately and properly reported to a physician and recorded in the recipient's clinical record.

(8) A provider shall ensure that the use of psychotropic medications is subject to the following restrictions:

(a) Unless the individual consents or unless administration of chemotherapy is necessary to prevent physical injury to the individual or to others psychotropic medications shall not be administered to:

(i) A recipient who has been admitted by medical certification or by petition until after a final adjudication as required under section 468(2) of the act.

(ii) A defendant undergoing examination at the center for forensic psychiatry or other certified facility to determine competency to stand trial.

(iii) A person acquitted of a criminal charge by reason of insanity while undergoing examination and evaluation at the center for forensic psychiatry.

Annual Administrative Code Supplement
2007 Edition

(b) A provider may administer chemotherapy to prevent physical harm or injury after signed documentation of the physician is placed in the resident's clinical record and when the actions of a recipient or other objective criteria clearly demonstrate to a physician that the recipient poses a risk of harm to himself, herself, or others.

(c) Initial administration of psychotropic chemotherapy may not be extended beyond 48 hours unless there is consent. The duration of psychotropic chemotherapy shall be as short as possible and at the lowest possible dosage that is therapeutically effective. The chemotherapy shall be terminated as soon as there is little likelihood that the recipient will pose a risk of harm to himself, herself, or others.

(d) Additional courses of chemotherapy may be prescribed and administered if a recipient decompensates and again poses a risk to himself, herself, or others.

(9) A provider shall ensure that only medication that is authorized in writing by a physician is given to recipients upon his or her leave or discharge from the providers program and that enough medication is made available to ensure the recipient has an adequate supply until he or she can become established with another provider.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 8, Eff. Dec.11, 1981; 1986 MR 12, Eff. Jan. 6, 1987; 1998 MR 7, Eff. July 8, 1998; 2007 MR 23, Eff. Dec. 4, 2007.

R 330.7161

Source: 1998-2000 AACS.

R 330.7165

Source: 1998-2000 AACS.

R 330.7171

Source: 1981 AACS.

R 330.7175

Source: 1998-2000 AACS.

R 330.7181

Source: 1998-2000 AACS.

R 330.7185

Source: 1998-2000 AACS.

R 330.7188

Source: 1998-2000 AACS.

R 330.7189

Source: 1998-2000 AACS.

R 330.7191

Source: 1998-2000 AACS.

R 330.7195

Source: 1998-2000 AACS.

R 330.7199 Written plan of services.

Rule 7199. (1) The individualized written plan of services is the fundamental document in the recipient's record. A provider shall retain all periodic reviews, modifications, and revisions of the plan in the recipient's record.

(2) The plan shall identify, at a minimum, all of the following:

(a) All individuals, including family members, friends, and professionals that the individual desires or requires to be part of the planning process.

(b) The services, supports, and treatments that the recipient requested of the provider.

(c) The services, supports, and treatments committed by the responsible mental health agency to honor the recipient's request specified in subdivision (b) of this subrule.

(d) The person or persons who will assume responsibility for assuring that the committed services and supports are delivered.

(e) When the recipient can reasonably expect each of the committed services and supports to commence, and, in the case of

Annual Administrative Code Supplement
2007 Edition

recurring services or supports, how frequently, for what duration, and over what period of time.

(f) How the committed mental health services and supports will be coordinated with the recipient's natural support systems and the services and supports provided by other public and private organizations.

(g) Any restrictions or limitations of the recipient's rights. Such restrictions, limitations, or any aversive or intrusive behavior treatment techniques shall be reviewed and approved by a formally constituted committee of mental health professionals with specific knowledge, training, and expertise in applied behavioral analysis. Any restriction or limitation shall be justified, time-limited, and clearly documented in the plan of service. Documentation shall be included that describes attempts that have been made to avoid such restrictions as well as what actions will be taken as part of the plan to ameliorate or eliminate the need for the restrictions in the future.

(h) Strategies for assuring that recipients have access to needed and available supports identified through a review of their needs. Areas of possible need may include any of the following:

- (i) Food.
- (ii) Shelter.
- (iii) Clothing.
- (iv) Physical health care.
- (v) Employment.
- (vi) Education.
- (vii) Legal services.
- (viii) Transportation.
- (ix) Recreation.

(i) A description of any involuntary procedures and the legal basis for performing them.

(j) A specific date or dates when the overall plan, and any of its subcomponents will be formally reviewed for possible modification or revision.

(3) The plan shall not contain privileged information or communications.

(4) Except as otherwise noted in subrule (5) of this rule, the individual plan of service shall be formally agreed to in whole or in part by the responsible mental health agency and the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient. If the appropriate signatures are unobtainable, then the responsible mental health agency shall document witnessing verbal agreement to the plan. Copies of the plan shall be provided to the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient.

(5) Implementation of a plan without agreement of the recipient, his or her guardian, if any, or parent who has legal custody of a minor recipient may only occur when a recipient has been adjudicated pursuant to the provisions of section 469a, 472a, 473, 515, 518, or 519 of the act. However, if the proposed plan in whole or in part is implemented without the concurrence of the adjudicated recipient or his or her guardian, if any, or the parent who has legal custody of a minor recipient, then the stated objections of the recipient or his or her guardian or the parent who has legal custody of a minor recipient shall be included in the plan.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1984 MR 5, Eff. May 26, 1984; 1986 MR 12, Eff. Jan. 6, 1987; 1990 MR 7, Eff. July 19, 1990; 1998 MR 7, Eff. July 8, 1998; 2007 MR 23, Eff. Dec. 4, 2007.

R 330.7205

Source: 1998-2000 AACS.

R 330.7221

Source: 1997 AACS.

R 330.7227

Source: 1998-2000 AACS.

R 330.7229

Source: 1998-2000 AACS.

R 330.7231

Source: 1998-2000 AACS.

R 330.7235

Source: 1998-2000 AACS.

R 330.7239

Annual Administrative Code Supplement
2007 Edition

Source: 1998-2000 AACs.

R 330.7243 Restraint and seclusion.

Rule 7243. (1) A provider shall keep a separate, permanent chronological record specifically identifying all instances when physical restraint or seclusion has been used. The record shall include all of the following information:

- (a) The name of the recipient.
- (b) The type of physical restraint or conditions of seclusion.
- (c) The name of the authorizing and ordering physician.
- (d) The date and time placed in temporary, authorized, and ordered physical restraint or seclusion.
- (e) The date and time the recipient was removed from temporary, authorized, and ordered physical restraint or seclusion.
- (2) A recipient who is in restraint or seclusion shall be inspected at least once every 15 minutes by designated personnel.
- (3) A provider shall ensure that documentation of staff monitoring and observation is entered into the medical record of the recipient.
- (4) A recipient in physical restraint or seclusion shall be provided hourly access to a toilet.
- (5) A recipient in physical restraint or seclusion shall have an opportunity to bathe, or shall be bathed as often as needed, but at least once every 24 hours.
- (6) If an order for restraint or seclusion is to expire and the continued use of restraint or seclusion is clinically indicated and must be extended, then a physician's reauthorization or reordering of restraint or seclusion shall be in compliance with both of the following provisions:
 - (a) If the physical restraint device is a cloth vest and is used to limit the resident's movement at night to prevent the recipient from injuring himself or herself in bed, the physician may reauthorize or reorder the continued use of the cloth vest device pursuant to the provisions of section 740(4) and(5) of the act.
 - (b) Except as specified in subdivision (a) of this subrule, a physician who orders or reorders restraint or seclusion shall do so in accordance with the provisions of sections 740(5) and 742(5) of the act. The required examination by a physician shall be conducted not more than 30 minutes before the expiration of the expiring order for restraint or seclusion.
- (7) If a recipient is removed from restraint or seclusion for more than 30 minutes, then the order or authorization shall terminate.
- (8) A provider shall ensure that a secluded or restrained recipient is given an explanation of why he or she is being secluded or restrained and what he or she needs to do to have the restraint or seclusion order removed. The explanation shall be provided in clear behavioral terms and documented in the record.
- (9) For restrained recipients, a provider shall ensure that an assessment of the circulation status of restrained limbs is conducted and documented at 15-minute intervals or more often if medically indicated.
- (10) For purposes of this rule, a time out or therapeutic de-escalation program, as defined in R 330.7001, is not a form of seclusion.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 8, Eff. Dec.11, 1981; 1979 ACS 13, Eff. Feb. 1, 1983; 1984 MR 5, Eff. May 26, 1984; 1998 MR 7, Eff. July 8, 1998; 2007 MR 23, Eff. Dec. 4, 2007.

R 330.7251

Source: 1998-2000 AACs.

R 330.7253

Source: 1998-2000 AACs.

R 330.7254

Source: 1998-2000 AACs.

R 330.7260

Source: 1981 AACs.

PART 8. FINANCIAL LIABILITY FOR MENTAL HEALTH SERVICES

R 330.8005

Source: 1997 AACs.

R 330.8008

Source: 1997 AACs.

Annual Administrative Code Supplement
2007 Edition

R 330.8012
Source: 1997 AACS.

R 330.8024
Source: 1981 AACS.

SUBPART 2. COMMUNITY MENTAL HEALTH

R 330.8201
Source: 1997 AACS.

R 330.8204
Source: 1997 AACS.

R 330.8205
Source: 1997 AACS.

R 330.8206
Source: 1997 AACS.

R 330.8207
Source: 1997 AACS.

R 330.8208
Source: 1997 AACS.

R 330.8209
Source: 1997 AACS.

R 330.8210
Source: 1997 AACS.

R 330.8214
Source: 1997 AACS.

R 330.8215
Source: 1997 AACS.

R 330.8217
Source: 1997 AACS.

R 330.8220
Source: 1997 AACS.

R 330.8224
Source: 1997 AACS.

R 330.8227
Source: 1997 AACS.

R 330.8229
Source: 1997 AACS.

R 330.8230
Source: 1997 AACS.

R 330.8234
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.8237
Source: 1997 AACS.

R 330.8238
Source: 1997 AACS.

R 330.8239
Source: 1997 AACS.

R 330.8240
Source: 1997 AACS.

R 330.8241
Source: 1997 AACS.

R 330.8242
Source: 1997 AACS.

R 330.8244
Source: 1997 AACS.

R 330.8250
Source: 1997 AACS.

R 330.8251
Source: 1997 AACS.

R 330.8254
Source: 1997 AACS.

R 330.8256
Source: 1997 AACS.

R 330.8257
Source: 1997 AACS.

R 330.8264
Source: 1997 AACS.

R 330.8267
Source: 1997 AACS.

R 330.8270
Source: 1997 AACS.

R 330.8273
Source: 1997 AACS.

R 330.8275
Source: 1997 AACS.

R 330.8277
Source: 1997 AACS.

R 330.8279
Source: 1997 AACS.

R 330.8280
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.8284
Source: 1997 AACS.

PART 9. MISCELLANEOUS PROVISIONS

SUBPART 1. LAFAYETTE CLINIC

R 330.9001
Source: 1997 AACS.

R 330.9005
Source: 1997 AACS.

R 330.9007
Source: 1997 AACS.

R 330.9009
Source: 1997 AACS.

R 330.9011
Source: 1997 AACS.

SUBPART 2. NEURO-PSYCHIATRIC INSTITUTE

R 330.9121
Source: 1997 AACS.

R 330.9123
Source: 1997 AACS.

R 330.9125
Source: 1997 AACS.

SUBPART 3. ADMINISTRATIVE PROCEDURE

R 330.9201
Source: 1997 AACS.

R 330.9205
Source: 1997 AACS.

R 330.9208
Source: 1997 AACS.

R 330.9210
Source: 1997 AACS.

R 330.9215
Source: 1997 AACS.

R 330.9220
Source: 1997 AACS.

R 330.9222
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.9225
Source: 1997 AACS.

SUBPART 4. IMPACT STATEMENTS

R 330.9301
Source: 1986 AACS.

R 330.9306
Source: 1986 AACS.

SUBPART 5. CONDUCT ON DEPARTMENT PROPERTY

R 330.9401
Source: 1988 AACS.

R 330.9406
Source: 1988 AACS.

R 330.9411
Source: 1988 AACS.

R 330.9416
Source: 1988 AACS.

R 330.9421
Source: 1988 AACS.

R 330.9426
Source: 1988 AACS.

R 330.9431
Source: 1988 AACS.

PART 10. CRIMINAL PROVISIONS

SUBPART 1. TRANSFER OF PRISONERS

R 330.10001
Source: 1997 AACS.

R 330.10002
Source: 1997 AACS.

R 330.10003
Source: 1997 AACS.

R 330.10004
Source: 1997 AACS.

R 330.10005
Source: 1997 AACS.

R 330.10006
Source: 1997 AACS.

R 330.10006a
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.10007
Source: 1997 AACS.

R 330.10008
Source: 1981 AACS.

R 330.10009
Source: 1981 AACS.

R 330.10010
Source: 1997 AACS.

R 330.10011
Source: 1981 AACS.

R 330.10012
Source: 1997 AACS.

R 330.10013
Source: 1981 AACS.

R 330.10014
Source: 1981 AACS.

R 330.10015
Source: 1997 AACS.

R 330.10016
Source: 1997 AACS.

R 330.10017
Source: 1997 AACS.

R 330.10018
Source: 1997 AACS.

R 330.10019
Source: 1997 AACS.

R 330.10020
Source: 1997 AACS.

R 330.10021
Source: 1997 AACS.

R 330.10022
Source: 1997 AACS.

R 330.10023
Source: 1997 AACS.

R 330.10024
Source: 1997 AACS.

R 330.10025
Source: 1997 AACS.

R 330.10026
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.10027
Source: 1997 AACS.

R 330.10028
Source: 1997 AACS.

R 330.10029
Source: 1997 AACS.

SUBPART 2. FORENSIC EXAMINATIONS

R 330.10055
Source: 1988 AACS.

R 330.10056
Source: 1988 AACS.

R 330.10057
Source: 1988 AACS.

R 330.10058
Source: 1988 AACS.

R 330.10059
Source: 1988 AACS.

DEPARTMENT OF COMMUNITY HEALTH

HEALTH LEGISLATION AND POLICY DEVELOPMENT

GENERAL RULES

PART 11. ENFORCEMENT SYSTEM FOR LONG-TERM CARE FACILITIES

R 330.11001
Source: 1998-2000 AACS.

R 330.11002
Source: 1998-2000 AACS.

R 330.11003
Source: 1998-2000 AACS.

R 330.11004
Source: 1998-2000 AACS.

R 330.11005
Source: 1998-2000 AACS.

R 330.11006
Source: 1998-2000 AACS.

R 330.11007
Source: 1998-2000 AACS.

R 330.11008
Source: 1998-2000 AACS.

Annual Administrative Code Supplement
2007 Edition

R 330.11009
Source: 1998-2000 AACS.

R 330.11010
Source: 1998-2000 AACS.

R 330.11011
Source: 1998-2000 AACS.

R 330.11012
Source: 1998-2000 AACS.

R 330.11013
Source: 1998-2000 AACS.

R 330.11014
Source: 1998-2000 AACS.

R 330.11015
Source: 1998-2000 AACS.

R 330.11016
Source: 1998-2000 AACS.

R 330.11017
Source: 1998-2000 AACS.

DEPARTMENT OF TREASURY
STATE HOSPITAL FINANCE AUTHORITY
GENERAL RULES

R 331.1
Source: 1997 AACS.

R 331.2
Source: 1997 AACS.

R 331.3
Source: 1997 AACS.

R 331.4
Source: 1997 AACS.

R 331.5
Source: 1997 AACS.

R 331.6
Source: 1997 AACS.

R 331.7
Source: 1997 AACS.

R 331.8
Source: 1997 AACS.

R 331.9

Annual Administrative Code Supplement
2007 Edition

Source: 1997 AACS.

R 331.10

Source: 1997 AACS.

R 331.11

Source: 1997 AACS.

R 331.12

Source: 1997 AACS.

R 331.13

Source: 1997 AACS.

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

GENERAL RULES

PART 1. DEFINITIONS

R 336.11

Source: 1997 AACS.

R 336.12

Source: 1997 AACS.

R 336.13

Source: 1997 AACS.

R 336.14

Source: 1997 AACS.

PART 2. AIR USE APPROVAL

R 336.21

Source: 1997 AACS.

R 336.26

Source: 1997 AACS.

R 336.28

Source: 1997 AACS.

R 336.29

Source: 1997 AACS.

R 336.30

Source: 1997 AACS.

R 336.31

Source: 1997 AACS.

R 336.32

Source: 1997 AACS.

R 336.33

Annual Administrative Code Supplement
2007 Edition

Source: 1997 AACS.

R 336.34

Source: 1997 AACS.

R 336.35

Source: 1997 AACS.

R 336.36

Source: 1997 AACS.

PART 3. EMISSION LIMITATIONS AND PROHIBITIONS

R 336.41—R 336.49

Source: 1997 AACS.

R 336.42

Source: 1997 AACS.

R 336.43

Source: 1997 AACS.

R 336.44

Source: 1997 AACS.

R 336.45

Source: 1997 AACS.

R 336.46

Source: 1997 AACS.

R 336.47

Source: 1997 AACS.

R 336.48

Source: 1997 AACS.

R 336.49

Source: 1997 AACS.

PART 4. TESTING AND SAMPLING

R 336.51

Source: 1997 AACS.

R 336.52

Source: 1997 AACS.

R 336.53

Source: 1997 AACS.

R 336.54

Source: 1997 AACS.

PART 5. AIR CLEANING DEVICES AND COLLECTED CONTAMINANTS

Annual Administrative Code Supplement
2007 Edition

R 336.61
Source: 1997 AACS.

R 336.62
Source: 1997 AACS.

PART 6. AIR POLLUTION EPISODES

R 336.71
Source: 1997 AACS.

R 336.72
Source: 1997 AACS.

R 336.73
Source: 1997 AACS.

R 336.74
Source: 1997 AACS.

R 336.75
Source: 1997 AACS.

R 336.76
Source: 1997 AACS.

R 336.77
Source: 1997 AACS.

R 336.78
Source: 1997 AACS.

R 336.79
Source: 1997 AACS.

PART 7. ANNUAL REPORTING AND SURVEILLANCE FEES

R 336.81
Source: 1997 AACS.

R 336.82
Source: 1997 AACS.

R 336.83
Source: 1997 AACS.

PART 8. SUSPENSION OF ENFORCEMENT

R 336.91
Source: 1997 AACS.

R 336.92
Source: 1997 AACS.

R 336.93
Source: 1997 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.94
Source: 1997 AACS.

R 336.95
Source: 1997 AACS.

R 336.96
Source: 1997 AACS.

R 336.97
Source: 1997 AACS.

PART 10. ORGANIZATION, OPERATIONS, AND PROCEDURES

R 336.101
Source: 1997 AACS.

R 336.102
Source: 1997 AACS.

R 336.103
Source: 1997 AACS.

R 336.104
Source: 1997 AACS.

R 336.105
Source: 1997 AACS.

R 336.106
Source: 1997 AACS.

R 336.107
Source: 1997 AACS.

R 336.108
Source: 1997 AACS.

PART 11. HEARINGS

R 336.111
Source: 1997 AACS.

R 336.112
Source: 1997 AACS.

R 336.113
Source: 1997 AACS.

R 336.114
Source: 1997 AACS.

R 336.115
Source: 1997 AACS.

R 336.116
Source: 1997 AACS.

PART 14. EXTENSION OF COMPLIANCE DATE PAST JANUARY 1, 1980

R 336.141
Source: 1997 AACS.

R 336.142
Source: 1997 AACS.

R 336.143
Source: 1997 AACS.

R 336.144
Source: 1997 AACS.

R 336.145
Source: 1997 AACS.

R 336.146
Source: 1997 AACS.

R 336.147
Source: 1997 AACS.

AIR QUALITY DIVISION
ANNUAL REPORTING

R 336.201
Source: 1980 AACS.

R 336.202
Source: 1986 AACS.

R 336.203
Source: 1997 AACS.

R 336.204
Source: 1987 AACS.

R 336.205
Source: 1980 AACS.

DEPARTMENT OF ENVIROMENTAL QUALITY

AIR QUALITY DIVISION

DISBURSEMENT OF AIR POLLUTION SURVEILLANCE FEES TO LOCAL UNITS

R 336.501
Source: 1998-2000 AACS.

R 336.502
Source: 1998-2000 AACS.

R 336.503
Source: 1998-2000 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.504
Source: 1998-2000 AACS.

R 336.505
Source: 1998-2000 AACS.

R 336.506
Source: 1998-2000 AACS.

R 336.507
Source: 1998-2000 AACS.

R 336.508
Source: 1998-2000 AACS.

MOTOR VEHICLE EMISSIONS INSPECTION/MAINTENANCE PROGRAM

R 336.601
Source: 1997 AACS.

R 336.602
Source: 1997 AACS.

R 336.603
Source: 1997 AACS.

AIR POLLUTION CONTROL

PART 1. GENERAL PROVISIONS

R 336.1101
Source: 2003 AACS.

R 336.1102
Source: 2002 AACS.

R 336.1103
Source: 2003 AACS.

R 336.1104
Source: 2002 AACS.

R 336.1105
Source: 2002 AACS.

R 336.1106
Source: 2003 AACS.

R 336.1107
Source: 2002 AACS.

R 336.1108
Source: 2002 AACS.

R 336.1109
Source: 1998-2000 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1112
Source: 1992 AACS.

R 336.1113
Source: 2002 AACS.

R 336.1114
Source: 2003 AACS.

R 336.1115
Source: 1992 AACS.

R 336.1116
Source: 2003 AACS.

R 336.1118
Source: 2003 AACS.

R 336.1119
Source: 2003 AACS.

R 336.1120
Source: 2002 AACS.

R 336.1121
Source: 1989 AACS.

R 336.1122
Source: 2003 AACS.

R 336.1123
Source: 1995 AACS.

R 336.1127
Source: 1980 AACS.

R 336.1128
Source: 1980 AACS.

PART 2. AIR USE APPROVAL

R 336.1201
Source: 2003 AACS.

R 336.1201a
Source: 2003 AACS.

R 336.1202
Source: 2003 AACS.

R 336.1203
Source: 2003 AACS.

R 336.1204
Source: 2003 AACS.

R 336.1205
Source: 2003 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1206
Source: 2003 AACCS.

R 336.1207
Source: 2003 AACCS.

R 336.1208
Source: 1997 AACCS.

R 336.1208a
Source: 1996 AACCS.

R 336.1209
Source: 1995 AACCS.

R 336.1210
Source: 2001 AACCS.

R 336.1211
Source: 2001 AACCS.

R 336.1212
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R 336.1213
Source: 2001 AACCS.

R 336.1214
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R 336.1214a
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Annual Administrative Code Supplement
2007 Edition

R 336.1225
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R 336.1231
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R 336.1232
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R 336.1240
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R 336.1241
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R 336.1278
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R 336.1278a
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R 336.1279
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R 336.1280
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R 336.1281
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R 336.1283
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R 336.1284
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R 336.1285
Source: 2003 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1286
Source: 1997 AACS.

R 336.1287
Source: 2003 AACS.

R 336.1288
Source: 1995 AACS.

R 336.1289
Source: 2003 AACS.

R 336.1290
Source: 1997 AACS.

R 336.1299
Source: 2003 AACS.

PART 3. EMISSION LIMITATIONS AND PROHIBITIONS—PARTICULATE MATTER

R 336.1301
Source: 2002 AACS.

R 336.1302
Source: 1997 AACS.

R 336.1303
Source: 2002 AACS.

R 336.1310
Source: 1998-2000 AACS.

R 336.1320
Source: 1998-2000 AACS.

R 336.1330
Source: 2002 AACS.

R 336.1331
Source: 2002 AACS.

R 336.1349
Source: 1980 AACS.

R 336.1350
Source: 1985 AACS.

R 336.1351
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Annual Administrative Code Supplement
2007 Edition

R 336.1355
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R 336.1367
Source: 1985 AACS.

R 336.1370
Source: 1981 AACS.

R 336.1371
Source: 2002 AACS.

R 336.1372
Source: 2002 AACS.

R 336.1374
Source: 2002 AACS.

PART 4. EMISSION LIMITATIONS AND PROHIBITIONS—SULFUR-BEARING COMPOUNDS

R 336.1401
Source: 2002 AACS.

R 336.1402
Source: 1980 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1403
Source: 2002 AACS.

R 336.1404
Source: 1980 AACS.

PART 5. EXTENSION OF SULFUR DIOXIDE COMPLIANCE

DATE FOR POWER PLANTS PAST JANUARY 1, 1980

R 336.1501
Source: 1997 AACS.

R 336.1502
Source: 1997 AACS.

R 336.1503
Source: 1997 AACS.

R 336.1504
Source: 1997 AACS.

R 336.1505
Source: 1997 AACS.

R 336.1506
Source: 1997 AACS.

R 336.1507
Source: 1997 AACS.

**PART 6. EMISSION LIMITATIONS AND PROHIBITIONS—EXISTING SOURCES OF VOLATILE ORGANIC
COMPOUND EMISSIONS**

R 336.1601
Source: 2002 AACS.

R 336.1602
Source: 2002 AACS.

R 336.1603
Source: 1997 AACS.

R 336.1604
Source: 2002 AACS.

R 336.1605
Source: 2002 AACS.

R 336.1606
Source: 2002 AACS.

R 336.1608
Source: 2002 AACS.

R 336.1609
Source: 1989 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1610
Source: 2002 AACS.

R 336.1615
Source: 2002 AACS.

R 336.1611
Source: 1997 AACS.

R 336.1612
Source: 1997 AACS.

R 336.1613
Source: 1997 AACS.

R 336.1614
Source: 1997 AACS.

R 336.1615
Source: 1980 AACS.

R 336.1616
Source: 2002 AACS.

R 336.1617
Source: 2002 AACS.

R 336.1618
Source: 2002 AACS.

R 336.1619
Source: 2002 AACS.

R 336.1620
Source: 1998-2000 AACS.

R 336.1621
Source: 1998-2000 AACS.

R 336.1622
Source: 2002 AACS.

R 336.1623
Source: 2002 AACS.

R 336.1624
Source: 1998-2000 AACS.

R 336.1625
Source: 1998-2000 AACS.

R 336.1626
Source: 1997 AACS.

R 336.1627
Source: 2006 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1628

Source: 2002 AACS.

R 336.1629

Source: 2002 AACS.

R 336.1630

Source: 2002 AACS.

R 336.1631

Source: 2002 AACS.

R 336.1632

Source: 1993 AACS.

R 336.1651

Source: 2002 AACS.

R 336.1660 Standards for volatile organic compounds emissions from consumer products.

Rule 660. (1) The provisions in the ozone transport commission's (OTC), "Model Rule for Consumer Products," dated September 13, 2006, are adopted by reference in this rule, with the following exceptions:

- (a) Section (8), variances.
- (b) Section (10), severability.
- (c) Section (11)(f), violations.
- (d) Where the date "January 1, 2005" appears in the following sections, the department shall instead recognize January 29, 2007:
 - (i) Section (1), applicability.
 - (ii) Section (3)(a), table, (f)(1)(i), and (g)(3) standards.
 - (iii) Section (6)(d)(1), administrative requirements.
- (e) Where the date "2005" appears in section 7(d)(2) and (3), the department shall instead recognize 2007. Where the date "March 1, 2006" appears in section 7(d)(2) and (3), the department shall instead recognize March 1, 2008.

(2) Copies of the ozone transport commission's, "Model Rule for Consumer Products," dated September 13, 2006, may be obtained without charge from the Department of Environmental Quality, Air Quality Division, 525 West Allegan Street, P. O. Box 30260, Lansing, Michigan 48909-7760. A copy may also be obtained without charge from the Ozone Transport Commission, Hall of the States, 444 North Capitol Street, Suite 638, Washington, DC 20001, or on the ozone transport commission internet web site at www.otcair.org.

History: 2007 MR 2, Eff. Jan. 29, 2007; 2007 MR 19, Eff. Oct. 3, 2007.

R 336.1661 Definitions for consumer products.

Rule 661. As used in R 336.1660:

- (a) The "OTC state" means state of Michigan.
- (b) "Volatile organic compound" or "VOC" means a compound as defined in 40 C.F.R. §51.100 (2006). For the purpose of clarifying the definition, the provisions of 40 C.F.R. §51.100 (2006) are adopted by reference in these rules. Copies of 40 C.F.R. §51.100 are available for inspection and purchase at the Department of Environmental Quality, Air Quality Division, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost at the time of adoption of these rules of \$55.00. Copies may be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost at the time of adoption of these rules of \$45.00, or on the United States government printing office internet web site at www.gpoaccess.gov.

History: 2007 MR 2, Eff. Jan. 29, 2007; 2007 MR 19, Eff. Oct. 3, 2007.

**PART 7. EMISSION LIMITATIONS AND PROHIBITIONS—NEW SOURCES OF VOLATILE ORGANIC
COMPOUND EMISSIONS**

R 336.1701

Source: 2002 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1702

Source: 2002 AACS.

R 336.1703

Source: 2002 AACS.

R 336.1704

Source: 2002 AACS.

R 336.1705

Source: 2002 AACS.

R 336.1706

Source: 1997 AACS.

R 336.1707

Source: 1997 AACS.

R 336.1708

Source: 1997 AACS.

R 336.1709

Source: 1997 AACS.

R 336.1710

Source: 1997 AACS.

PART 8. EMISSION LIMITATIONS AND PROHIBITIONS--OXIDES OF NITROGEN

R 336.1801

Source: 2002 AACS.

R 336.1802

Source: 2004 AACS.

R 336.1802a Adoption by reference.

Rule 802a. The following documents are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at the cost at the time of adoption of these rules (AQD price). Copies may be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania, 15250 7954, at the cost at the time of adoption of these rules (GPO price), or on the United States government printing office internet web site at <http://www.gpoaccess.gov>:

(a) Title 40 C.F.R., §72.2 definitions under the “Acid Rain Program General Provisions” (2006), AQD price \$72.00; GPO price \$62.00.

(b) Title 40 C.F.R. §72.8, “Retired Units Exemption” (2006), AQD price \$72.00; GPO price \$62.00

(c) Title 40 C.F.R., part 75, “Continuous Emission Monitoring” (2006), AQD price \$72.00; GPO price \$62.00.

(d) Title 40 C.F.R., §96.54, “Compliance” (2006), AQD price \$70.00; GPO price \$60.00.

(e) Title 40 C.F.R., §97.2, 97.102, 97.103, 97.302 and 97.303, definitions under the “Federal Oxides of Nitrogen (NO_x) Budget Trading Program and CAIR NO_x and Sulfur Dioxide (SO₂) Trading Programs” (2006), AQD price \$70.00; GPO price \$60.00.

(f) Title 40 C.F.R., §97.104, “Applicability” (2006), AQD price \$70.00; GPO price \$60.00.

(g) Title 40 C.F.R., §§97.180 to 97.188 and §§97.380 to 97.388, opt-in provisions under the “Federal Oxides of Nitrogen (NO_x) Budget Trading Program and CAIR NO_x and Sulfur Dioxide (SO₂) Trading Programs” (2006), AQD price \$70.00; GPO price \$60.00.

(h) Title 40 C.F.R., §97.304, Applicability (2006), AQD price \$70.00; GPO price \$60.00.

History: 2007 MR 12, Eff. June 25, 2007.

Annual Administrative Code Supplement
2007 Edition

R 336.1803 Definitions.

Rule 803. (1) The provisions of 40 C.F.R. §96.2 are adopted by reference in this rule. The definitions for the oxides of nitrogen budget trading program in 40 C.F.R. §96.2 are applicable to R 336.1802 to R 336.1816. In addition, all of the following definitions apply as indicated, including a modification to the “NOx budget trading program” definition:

(a) “Electric-generating unit (EGU)” means the following:

(i) For units that commenced operation before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity of more than 25 megawatts and produced electricity for sale.

(ii) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity of more than 25 megawatts and produced electricity for sale.

(iii) For units that commence operation on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity of more than 25 megawatts and produces electricity for sale.

(b) “Large affected unit” means the following:

(i) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale.

(ii) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale.

(iii) For units that commence operation on or after January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and to which either of the following provisions applies:

(A) The unit at no time serves a generator producing electricity for sale.

(B) The unit at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of 25 megawatts or less and has the potential to use not more than 50% of the potential electrical output capacity of the unit.

(c) “Michigan fine grid zone” means the geographical area that includes all of the following counties:

(i) Allegan.

(ii) Barry.

(iii) Bay.

(iv) Berrien.

(v) Branch.

(vi) Calhoun.

(vii) Cass.

(viii) Clinton.

(ix) Eaton.

(x) Genesee.

(xi) Gratiot.

(xii) Hillsdale.

(xiii) Ingham.

(xiv) Ionia.

(xv) Isabella.

(xvi) Jackson.

(xvii) Kalamazoo.

(xviii) Kent.

(xix) Lapeer.

(xx) Lenawee.

(xxi) Livingston.

(xxii) Macomb.

(xxiii) Mecosta.

(xxiv) Midland.

(xxv) Monroe.

(xxvi) Montcalm.

(xxvii) Muskegon.

(xxviii) Newaygo.

(xxix) Oakland.

(xxx) Oceana.

(xxxi) Ottawa.

(xxxii) Saginaw.

(xxxiii) Saint Clair.

Annual Administrative Code Supplement
2007 Edition

- (xxxiv) Saint Joseph.
- (xxxv) Sanilac.
- (xxxvi) Shiawassee.
- (xxxvii) Tuscola.
- (xxxviii) Vanburen.
- (xxxix) Washtenaw.
- (xxxx) Wayne.

(d) "NOx budget trading program" means a multi-state nitrogen oxides air pollution control and emission reduction program established pursuant to 40 C.F.R. part 96 and part 97. The provisions of 40 C.F.R. part 96 and part 97 are adopted by reference in subrule (2) of this rule.

(e) "Ozone control period" means the period of May 31, 2004, through September 30, 2004, and the period of May 1 to September 30 each subsequent and prior year. The term "ozone control period" replaces the term "control period."

(2) For R 336.1803 through R 336.1816, the provisions of 40 C.F.R. part 96 and part 97 (2006) are adopted by reference, except as modified in R 336.1804, R 336.1805, R 336.1808, R 336.1811, R 336.1813, and R 336.1815. Copies may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of the regulations may be obtained from the Department of Environmental Quality, Air Quality Division, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of this rule of \$70.00. A copy may also be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of this rule of \$60.00; or on the United States government printing office internet web site at www.access.gpo.gov.

(3) Definitions under the clean air interstate rule NOx ozone season and annual trading programs in 40 C.F.R. §97.102 and §97.302 are applicable to R 336.1821 to R 336.1834. In addition, all of the following definitions apply as indicated:

(a) "Biomass" means wood, wood residue, and wood products (for example, trees, tree stumps, tree limbs, bark, lumber, sawdust, sander dust, chips, scraps, slabs, millings, and shavings); animal litter; vegetative agricultural, and silvicultural materials, such as logging residues (slash), nut and grain hulls, and chaff (for example, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds.

(b) "CAIR" means clean air interstate rule.

(c) "Commence commercial operation" means the following:

(i) For a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.

(ii) For a unit with a date of commencement of operation as defined in this subrule and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(iii) For a unit with a date for commencement of operation as defined in this subrule and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this subrule as appropriate.

(d) Electric generating unit or "EGU" means any of the following:

(i) For the purposes of the CAIR NOx ozone season trading program; a CAIR NOx ozone season unit as defined under 40 C.F.R. §97.304,

(ii) Electric generating units required to be in Michigan's NOx SIP budget trading program that are not already included under 40 C.F.R. §96.304, which are defined as:

(A) For units that commenced operation before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity of more than 25 megawatts and produced electricity for sale.

(B) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity of more than 25 megawatts and produced electricity for sale.

(C) For units that commence operation on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity of more than 25 megawatts and produces electricity for sale.

(iii) For purposes of the CAIR NOx annual trading program; a CAIR NOx unit as defined under 40 C.F.R. §97.104.

(e) "Existing EGUs" for allocation purposes under R 336.1821 to R 336.1834, means electric generating units that commenced operations prior to the most recent year of the 5-year period used to calculate the allocations pursuant to these rules.

(f) "Fossil fuel-fired," means as defined in 40 C.F.R. §97.2 for the purposes of determining applicability for units that are considered either of the following:

(i) EGUS as defined pursuant to R 336.1803(3)(d)(ii).

(ii) Non-EGUs as defined pursuant to R 336.1803(3)(k).

Annual Administrative Code Supplement
2007 Edition

(g) “Fuel types,” for the allocation of allowances under Michigan’s programs only, means solid, liquid and gaseous fuel. The following definitions apply to fuel:

(i) “Solid fuel” includes, but is not limited to coal, biomass, tire-derived fuels and pet coke.

(ii) “Liquid fuel” includes, but is not limited to petroleum-based oils, glycerol, vegetable-based and animal waste-based liquids.

(iii) “Gaseous fuel” includes, but is not limited to coke oven gas, natural gas, propane, coal gas, blast furnace gas, and methane derived from animal wastes.

(h) “Michigan fine grid zone” means the geographical area that includes all of the following counties:

(i) Allegan.

(ii) Barry.

(iii) Bay.

(iv) Berrien.

(v) Branch.

(vi) Calhoun.

(vii) Cass.

(viii) Clinton.

(ix) Eaton.

(x) Genesee.

(xi) Gratiot.

(xii) Hillsdale.

(xiii) Ingham.

(xiv) Ionia.

(xv) Isabella.

(xvi) Jackson.

(xvii) Kalamazoo.

(xviii) Kent.

(xix) Lapeer.

(xx) Lenawee.

(xxi) Livingston.

(xxii) Macomb.

(xxiii) Mecosta.

(xxiv) Midland.

(xxv) Monroe.

(xxvi) Montcalm.

(xxvii) Muskegon.

(xxviii) Newaygo.

(xxix) Oakland.

(xxx) Oceana.

(xxxi) Ottawa.

(xxxii) Saginaw.

(xxxiii) Saint Clair.

(xxxiv) Saint Joseph.

(xxxv) Sanilac.

(xxxvi) Shiawassee.

(xxxvii) Tuscola.

(xxxviii) Vanburen.

(xxxix) Washtenaw.

(xxxx) Wayne.

(i) “New EGUs,” for allocation purposes under R 336.1821 to R 336.1834, means electric generating units that are commencing operation or projected to commence operation on or after January 1 of the most recent year of the 5-year period used to calculate the allocations pursuant to these rules.

(j) “Newly-affected EGUs,” for allocation purposes under R 336.1821 to R 336.1834, means existing EGUs located outside the Michigan fine grid zone or existing EGUs located within the Michigan fine grid zone which were exempt from the federal NOx budget program. This definition is applicable for the 2009 CAIR NOx ozone season program only and after that time the newly affected EGUs are considered existing EGUs. This definition excludes the Harbor Beach power plant which was previously included as an EGU in the NOx SIP Budget trading program and is considered existing for the purposes of CAIR.

Annual Administrative Code Supplement
2007 Edition

NOx ozone season program.

(k) "Non-EGUs" means the following units located in Michigan's fine grid zone:

(i) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale.

(ii) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale.

(iii) For units that commence operation on or after January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and to which either of the following provisions applies:

(A) The unit at no time serves a generator producing electricity for sale.

(B) The unit at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of 25 megawatts or less and has the potential to use not more than 50% of the potential electrical output capacity of the unit.

(l) "Ozone Season" means May 1 to September 30 of each calendar year.

(m) "Renewable energy source," for allocation purposes under R 336.1821 to R 336.1826, means a source, located in Michigan, that generates electricity by solar, wind, geothermal, or hydroelectric processes, excluding nuclear, that has commenced operation or is projected to commence operation on or after January 1 of the most recent year of the 5-year period used to calculate the allocations pursuant to these rules, which meets all of the following:

(i) Serves a generator at 25 megawatts or greater of electrical output.

(ii) Is not subject to R 336.1801(4)(a) or covered by any other definitions in this rule.

(iii) Captures energy from on-going natural processes.

(iv) Is considered a non-emitting, having zero emissions, source.

(n) "Renewable energy projects," for allocation purposes under R 336.1821 to R 336.1826, means renewable energy sources, located in Michigan and located within the same geographic area that when added together equal a generator greater than 25 megawatts of electrical output.

(o) "Unit" means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system, pursuant to EGUs as defined under R 336.1803(3)(d)(ii) and non-EGUs as defined under R 336.1803(3)(k).

History: 2002 MR 22, Eff. Dec. 4, 2002; MR 12, Eff. June 25, 2007.

R 336.1804

Source: 2004 AACS.

R 336.1805

Source: 2002 AACS.

R 336.1806

Source: 2002 AACS.

R 336.1807

Source: 2002 AACS.

R 336.1808

Source: 2002 AACS.

R 336.1809

Source: 2002 AACS.

R 336.1810

Source: 2002 AACS.

R 336.1811

Source: 2004 AACS.

R 336.1814

Source: 2002 AACS.

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R 336.1815

Source: 2002 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1816

Source: 2002 AACCS.

R 336.1817

Source: 2002 AACCS.

R 336.1818

Source: 2006 AACCS.

R 336.1821 CAIR NOx ozone season and annual trading programs; applicability determinations.

Rule 821. (1) This rule establishes Michigan's CAIR ozone season and annual emission budgets and trading programs for all of the following units:

- (a) CAIR NOx units as defined pursuant to 40 C.F.R. §97.104, adopted by reference in R 336.1802a.
- (b) CAIR NOx ozone season units as defined pursuant to 40 C.F.R. §97.304, adopted by reference in R 336.1802a.
- (c) All units required to be in the state's NOx SIP call trading program that are not already included under 40 C.F.R. §97.304 and are defined in R 336.1803(3)(d)(ii) and (k).
- (d) For purposes of allocating allowances under R 336.1821 to R 336.1826, the following units which are not addressed in subparagraphs (a), (b) and (c) of this subrule are CAIR NOx ozone season units:

- (i) Renewable energy sources.
- (ii) Renewable energy projects.

(2) An EGU located in Michigan and subject to the requirements pursuant to R 336.1821(a), (b) or (c) shall apply for and receive an annual or ozone season CAIR NOx permit. In addition, non-EGUs as defined in R 336.1803(3)(k) shall apply for and receive an ozone season CAIR NOx permit. This permit shall be administered under R 336.1214 and shall be incorporated into the source's renewable operating permit as an attachment. A federally enforceable NOx budget permit issued under the federal NOx budget program pursuant to R 336.1808 shall remain in effect until the CAIR NOx ozone season permit has been approved by the department.

(3) The fuel type adjusted allocations for each existing EGU shall be determined by multiplying the appropriate NOx emission rate and heat input as determined in accordance with R 336.1822 and R 336.1830 with an appropriate fuel adjustment factor coefficient as follows:

- (a) For a solid fuel-fired EGU, the allocation calculations shall be adjusted by multiplying the allocation values by 100%, i.e. 1.0.
- (b) For a liquid fuel-fired EGU, the allocation calculations shall be adjusted by multiplying the allocation values by 60%, i.e. 0.60.
- (c) For a gaseous fuel-fired EGU, the allocation calculations shall be adjusted by multiplying the allocation values by 40%, i.e. 0.40.
- (d) For a multi-fueled EGU, the allocation adjustment calculation shall be a weighted average based on the percentage heat input from each type of fuel burned in the unit, unless the source can demonstrate that certain types of fuel used in the process provided less than 10% of the annual heat input. If so, then the allocation adjustment is calculated based on only those fuel types which contributed 10% or more of the annual heat input.

(4) The owner or operator of any CAIR NOx ozone season or annual unit shall submit all of the following data within 30 days upon request by the department:

- (a) A unit's ozone season and annual heat input values or megawatt energy produced, which shall be the same data reported in accordance with 40 C.F.R. part 75 to the extent the unit is subject to 40 C.F.R. part 75 for the period involved.
- (b) A unit's total tons of oxides of nitrogen emissions during specified calendar years or ozone seasons as determined under 40 C.F.R. part 75, adopted by reference in R 336.1802a.
- (5) Effective January 1, 2009, the provisions of R 336.1802, R 336.1803(1) and R 336.1803(2), R 336.1804, R 336.1805, R 336.1806, R 336.1807, R 336.1808, R 336.1809, R 336.1810, R 336.1811, R 336.1812, R 336.1813, R 336.1814, R 336.1815, and R 336.1816 shall not apply to the control period beginning in 2009 or any control period thereafter.
- (6) Pursuant to the provisions in 40 C.F.R. §96.54 and for the 2009 control period only, if the U.S. environmental protection agency determines that there were excess emissions during the 2008 control period, deductions for excessive emission penalties shall be taken from the 2009 CAIR NOx ozone season allowances. Title 40 C.F.R. §96.54 is adopted by reference in R 336.1802a.

(7) Pursuant to any NOx SIP unused set-aside allowances through 2008 that are accumulated within the state account, the department shall allocate these allowances according to R 336.1823.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1822 CAIR NO_x ozone season trading program; allowance allocations.

Rule 822. (1) The CAIR NO_x ozone season trading program budget allocated by the department under subrule (3) of this rule for the CAIR NO_x ozone season control periods to the EGUs, non-EGUs, and renewable energy sources shall annually equal the total number of tons of oxides of nitrogen emissions as indicated in the following manner:

(a) The total CAIR NO_x ozone season budget for the ozone season time period of 2010 to 2014 is 31,180 tons. These allocations shall be distributed as follows:

(i) The CAIR NO_x ozone season budget available to existing and newly-affected EGUs. The following applies:

(A) For 2010 and 2011 ozone season control periods equals 28,321 tons.

(B) For 2012 to 2014 ozone season control periods equals 28,021 tons.

(ii) The CAIR NO_x ozone season budget available to existing non-EGUs for the 2010 to 2014 ozone season control periods is 1,309 tons.

(iii) The CAIR NO_x ozone season budget available to new non-EGUs and EGUs. The following applies:

(A) For 2010 and 2011 ozone season control periods is 700 tons.

(B) For 2012 to 2014 ozone season control periods is 1,000 tons.

(iv) The CAIR NO_x ozone season budget available to renewable energy sources and projects in the 2010 to 2014 ozone season control periods is 200 tons.

(v) The CAIR NO_x ozone season budget available to all existing EGUs and non-EGUs that have submitted an acceptable demonstration of a hardship to the department, in the 2010 to 2014 ozone season control periods is 650 tons.

(b) The total CAIR NO_x ozone season budget for the ozone season time period of 2015 and thereafter is 26,351 tons. These allocations shall be distributed as follows:

(i) The CAIR NO_x ozone season budget available to existing EGUs in the 2015 and thereafter ozone season control periods is 22,792 tons.

(ii) The CAIR NO_x ozone season budget available to existing ozone season non-EGUs for the 2015 and thereafter ozone season control periods is 1,309 tons.

(iii) The CAIR NO_x ozone season budget available to new non-EGUs and EGUs in the 2015 and thereafter ozone season control periods is 1,400 tons.

(iv) The CAIR NO_x ozone season budget available to renewable energy sources and projects in the 2015 and thereafter ozone season control periods is 200 tons.

(v) The CAIR NO_x ozone season budget available to all existing EGUs and non-EGUs that have submitted an acceptable demonstration of hardship to the department, in the 2015 and thereafter ozone season control periods is 650 tons.

(2) CAIR NO_x allowances for the 2009 ozone season control period shall be the same allowances as were allocated under the NO_x budget trading program. For newly-affected EGUs which were not subject to the federal NO_x budget program, these units are eligible to apply for allowances from the CAIR NO_x ozone season new source set-aside pool for the 2009 ozone season, pursuant to R 336.1823.

(3) The department shall allocate CAIR NO_x ozone season allowances to existing EGUs and non-EU ozone season units for calendar years 2010 and thereafter according to the following schedule:

(a) A 3-year allocation that is 3 years in advance of the 2010 ozone season and 4 years in advance of each subsequent ozone season control period. The 3-year allocation shall be as follows:

(i) By 60 days after the effective date of this rule or April 30, 2007, whichever is earlier, the department shall submit to the U.S. environmental protection agency the CAIR NO_x ozone season allowance allocations, under this subrule, for the ozone season control periods in 2010 and 2011.

(ii) By October 31, 2008, the department shall submit to the U.S. environmental protection agency the CAIR NO_x ozone season allowance allocations, under this subrule, for the ozone season control periods in 2012, 2013, and 2014.

(iii) By October 31, 2011, and thereafter each October 31 of the year that is 3 years after the last year of allocation submittal, the department shall submit to the U.S. environmental protection agency the CAIR NO_x ozone season allowance allocations as indicated under this subrule.

(4) For the CAIR NO_x ozone season control periods under subrule (3) of this rule, the department shall allocate allowances to existing EGU and non-EU ozone season units that commenced operation before January 1 of the most recent year of the 5-year period used to calculate heat input as follows:

(a) The department shall allocate allowances to each existing EGU ozone season unit as follows:

(i) During calendar years 2010 to 2014 as follows:

(A) Units with an allowable NO_x emission rate equal to or greater than the CAIR target budget rate of 0.15 pounds per million Btu, and units with no applicable NO_x emission rate shall receive an initial unadjusted allocation of allowances in an amount equaling 0.15 pounds per million Btu multiplied by the appropriate fuel adjustment factor and multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

Annual Administrative Code Supplement
2007 Edition

(B) Units with an allowable NOx emission rate less than the CAIR target budget rate of 0.15 pounds per million Btu shall receive an initial unadjusted allocation of allowances determined by calculating the arithmetic average of the CAIR target emission rate multiplied by the appropriate fuel adjustment factor plus the unit's allowable emission rate, which is then multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

$$Allocation = \left[\frac{\left\{ \frac{(CTER \times FAF) + AER}{2} \right\} \times HI}{2000 lb / ton} \right]$$

Where:

Allocation = The initial unadjusted NOx allowance allocation, in tons.
CTER = The CAIR target emission rate for 2009 to 2014 of 0.15 pounds per mm Btu.
FAF = Fuel adjustment factor as defined in R 336.1821.
AER = The unit's allowable emission rate.
HI = Average of the unit's 2 highest heat inputs in mm Btu for the appropriate 5 control periods.

(ii) During calendar years 2015 and thereafter as follows:

(A) Units with an allowable emission rate equal to or greater than the CAIR target budget rate of 0.125 pounds per million Btu shall receive allowances in an amount equaling 0.125 pounds per million Btu multiplied by the appropriate fuel adjustment factor and multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(B) Units with an allowable emission rate less than the CAIR target budget rate of 0.125 pounds per million Btu shall receive allowances determined by calculating the arithmetic average of the CAIR target emission rate multiplied by the appropriate fuel adjustment factor plus the unit's allowable emission rate, which is then multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

$$Allocation = \left[\frac{\left\{ \frac{(CTER \times FAF) + AER}{2} \right\} \times HI}{2000 lb / ton} \right]$$

Where:

Allocation = The initial unadjusted NOx allowance allocation, in tons.
CTER = The CAIR target emission rate for 2015 and thereafter of 0.125 pounds per mm Btu.
FAF = Fuel adjustment factor as defined in R 336.1821.
AER = The unit's allowable emission rate.
HI = Average of the unit's 2 highest heat inputs in mm Btu for the appropriate 5 control periods.

(b) The department shall allocate allowances to each existing non-EGU ozone season unit for calendar years 2010 to 2015 and thereafter in an amount equaling 0.17 pounds per million Btu or the allowable emission rate, whichever is more stringent, multiplied by the heat input as determined under subrule (6) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(5) If the initial total number of CAIR NOx ozone season budget allowances allocated to either all existing EGU or all existing non-EGU ozone season units for the years under subrule (4) of this rule does not equal the budgeted tons for such units as specified in subrule (1) of this rule, then the department shall adjust up or down the total number of CAIR NOx ozone season budget allowances allocated to each existing EGU or non-EGU, as appropriate, so that the total number of CAIR NOx ozone season budget allowances allocated to the entire group of EGUs or non-EGUs equals the appropriate values in subrule (1) of this rule. The adjustment shall be made by multiplying each unit's unadjusted initial allocation by a correction factor determined by dividing the appropriate existing EGU or non-EGU total budget tons from subrule (1) of this

Annual Administrative Code Supplement
2007 Edition

rule by the sum of all existing EGU or non-EGU units' initial unadjusted allocations, and rounding to the nearest whole number, as appropriate.

(6) The heat input, in million Btu's, used for calculating oxides of nitrogen allowance allocations for each subject unit under this rule shall be the unit's average of the 2 highest heat inputs for the ozone season control period in the 5 years immediately preceding the year in which the department is required to submit the oxide of nitrogen allocations. If the unit operated less than 2 full ozone seasons of the 5-year time period, then the unit's single highest ozone season heat input shall be used.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1823 New EGUs, new non-EGUs, and newly-affected EGUs under CAIR NOx ozone season trading program; allowance allocations.

Rule 823. (1) The department shall establish a set-aside pool for each CAIR NOx ozone season control allocation year for new EGUs and non-EGUs. This set-aside pool shall be allocated on a yearly basis as follows:

(a) For 2009, a total of 1,385 tons of CAIR NOx ozone season allowances, which have been carried over from the federal NOx budget program, for any new and newly-affected EGUs or new non-EGUs.

(b) For years 2010 and 2011, a total of 700 tons of CAIR NOx ozone season allowances for any new EGUs or new non-EGUs.

(c) For years 2012 to 2014 ozone season control periods, a total of 1,000 tons of CAIR NOx ozone season allowances for any new EGUs or new non-EGUs.

(d) For years 2015 and thereafter, a total of 1,400 tons of CAIR NOx ozone season allowances for any new EGUs or new non-EGUs.

(2) The CAIR authorized account representative of a newly-affected CAIR NOx ozone season EGU under this rule may submit to the department a request, in a format specified by the department, to receive CAIR NOx ozone season allowances for the 2009 CAIR NOx ozone season control period. All of the following apply:

(a) The oxides of nitrogen allowance allocation request shall be submitted before March 1 of the 2009 ozone season control period.

(b) The CAIR authorized account representative of any newly-affected EGU may request 2009 CAIR NOx ozone season allowances, based on an amount equaling 0.15 pounds per million Btu multiplied by the unit's ozone season heat input, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(c) The heat input, in million Btu's, used for calculating oxides of nitrogen allowance allocations for each subject unit under this rule shall be the unit's average of the 2 highest heat inputs for the ozone season control period in the 5 years immediately preceding the year in which the department is required to submit the oxide of nitrogen allocations. If the unit operated less than 2 full ozone seasons of the 5-year time period, then the unit's single highest heat input shall be used.

(3) The CAIR authorized account representative of a new CAIR NOx ozone season non-EGU under this rule may submit to the department a request, in a format specified by the department, to receive CAIR NOx ozone season allowances starting with the ozone season control period during which the CAIR NOx ozone season unit commenced or is projected to commence operation and ending with the control period preceding the control period for which it shall receive an allocation under R 336.1822. Both of the following apply:

(a) The CAIR NOx ozone season allowance allocation request shall be submitted before March 1 of the year of the first ozone control period for which the oxides of nitrogen allowance allocation is requested and after the date on which the department issues a permit to install for the non-EGU, if required, and each following year by March 1.

(b) The CAIR authorized account representative of any new non-EGU may request CAIR NOx ozone season allowances, based on an amount equaling 0.17 pounds per million Btu or the allowable emission rate, whichever is more stringent, multiplied by the nameplate design heat input rate for the unit, in million Btu's per hour, multiplied by the predicted hours of operation for the control period, divided by 2,000 pounds per ton and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(4) The CAIR authorized account representative of a new EGU CAIR NOx ozone season unit under this rule may submit to the department a written request, in a format specified by the department, to receive CAIR NOx ozone season allowances, starting with the ozone season control period during which the CAIR NOx ozone season unit commenced or is projected to commence operation and ending with the control period preceding the control period for which it shall receive an allocation under R 336.1822. All of the following apply:

(a) The CAIR NOx ozone season allowance allocation request shall be submitted before March 1 of the year of the first ozone control period for which the oxides of nitrogen allowance allocation is requested and after the date on which the department issues a permit to install for the EGU, if required, and each following year by March 1.

(b) The allocation methodology used for the first ozone season for which each new EGU requests allowances shall be calculated using the following formula:

Annual Administrative Code Supplement
2007 Edition

$$\text{Allocation} = \frac{1.0 \text{ lb NO}_x}{\text{MWh}} \times \frac{\text{Size of unit in MW} \times \text{hours of operation}}{2000 \text{ lb / ton}} \times 70\%$$

Where:

Allocation =	The unadjusted NO _x allowance allocation, in tons.
1.0 lb NO _x /MWh =	The factor for allocating NO _x allowances based on gross electric generation.
Size of the unit =	The nameplate capacity, as defined in the CAIR NO _x program of the EGU in megawatts.
Hours of Operation =	Predicted hours of operation per control period.
MWh =	Megawatt hours.

(c) The allocation methodology used for each consecutive ozone season for which each new EGU requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NO}_x}{\text{MWh}} \times \frac{\text{Actual Megawatt hours}}{2000 \text{ lb / ton}}$$

Where:

Allocation =	The unadjusted NO _x allowance allocation, in tons.
1.0 lb NO _x /MWh =	The factor for allocating NO _x allowances based on gross electric generation.
Actual megawatt hours =	The actual megawatt hours of electricity generated during the control period immediately preceding the request.
MWh =	Megawatt hours.

(d) When the new EGU has been placed in the existing pool, the calculation methods under R 336.1822 apply.

(5) The department shall review and allocate oxides of nitrogen allowances pursuant to each allocation request on a pro rata basis as follows:

(a) Upon receipt of the CAIR NO_x unit's allowance allocation request, the department shall determine whether allowances are available and shall make necessary adjustments to the request to ensure that for the CAIR NO_x ozone season control period, the number of allowances specified are consistent with the requirements of subrule (1) of this rule.

(b) If the allocation set-aside pool for the CAIR NO_x ozone season control period for which CAIR NO_x ozone season allowances are requested has an amount greater than or equal to the number requested, as adjusted under subdivision (a) of this subrule, then the department shall allocate the amount of the CAIR NO_x ozone season allowances requested.

(c) If the allocation set-aside pool for the CAIR NO_x ozone season control period for which CAIR NO_x ozone season allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, as adjusted under subdivision (a) of this subrule, then the department shall proportionately reduce the number of CAIR NO_x ozone season allowances allocated to each CAIR NO_x ozone season unit so that the total number of CAIR NO_x ozone season allowances allocated are equal to the amounts referenced in subrule (1)(a), (b) or (c) of this rule.

(6) CAIR NO_x ozone season allowances not allocated or requested that remain in the new source set-aside pool for any allocation year shall be re-allocated to the existing EGU and non-EGU source pools, using the allocation methodologies as outlined in R 336.1822 and based on a ratio of the number of allowances remaining in the pool and the number of allowances in the EGU's and non-EGU's budget.

(7) Not later than July 31 of the year for which the allowances are allocated, the department shall submit to the U.S. environmental protection agency the CAIR NO_x ozone season allowance allocations, as determined under this rule.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1824 CAIR NO_x ozone season trading program; hardship set-aside.

Rule 824. (1) After the provisions of R 336.1822 have been followed, the authorized account representative may pursue a request for hardship allowances. These requests must be submitted not later than 30 days prior to the deadline for department submittals to the U.S. environmental protection agency as described in R 336.1822.

(2) For existing EGUs and non-EGUs subject to the CAIR NO_x ozone season budget, the department shall allocate CAIR NO_x hardship allowances under the following procedures:

(a) The department shall establish a hardship allocation set-aside pool for each CAIR NO_x ozone season allocation year starting in 2010. This hardship set-aside pool shall be allocated on an ozone season basis and contains a total of 650 tons per allocation year of CAIR NO_x ozone season allowances, for any qualifying EGUs or non-EGUs.

Annual Administrative Code Supplement
2007 Edition

(b) Hardship allowances may be allocated to an EGU or non-EGU, if the requesting authorized account representative demonstrates both of the following:

(i) The owner or operator of the EGU or a non-EGU has less than 250 employees within its company or its electric generating division or department.

(ii) The controls required for the EGU or non-EGU under this part result in excessive or prohibitive costs for compliance, pursuant to the procedures in subrule (3) of this rule.

(c) The CAIR authorized account representative of a CAIR NO_x ozone season unit under this rule may submit to the department a written request, in a format specified by the department, to receive CAIR NO_x ozone season hardship allowances. The authorized account representative shall submit the request for the amount of estimated hardship allowances they need, using historical ozone season heat input utilization levels multiplied by historical oxides of nitrogen emission rates as follows:

(i) Historical heat input utilization levels shall be based on the unit's average of the 2 highest heat input utilization levels for the ozone season in the 5 years immediately preceding the year in which the department is required to submit the oxides of nitrogen allocations to the U.S. environmental protection agency. If the unit operated less than 2 full ozone seasons during the 5-year time period, then the unit's single highest ozone season heat input level shall be used.

(ii) Historic oxides of nitrogen rates shall be based on the oxides of nitrogen rate reported by the authorized account representative in its 40 C.F.R. part 75 reports to the U.S. environmental protection agency in the calendar year immediately preceding the year in which the department is required to submit the oxides of nitrogen allocation.

(iii) Units receiving hardship allowances shall receive a 3-year allocation that is 3 years in advance of the 2010 ozone season. The 3-year allocation shall be the same as provided in R 336.1822(3).

(d) The department shall allocate the allowances from the hardship set-aside pool based on the requests received as follows:

(i) If the allocation hardship set-aside pool for the CAIR NO_x ozone season control period for which CAIR NO_x ozone season allowances are requested has an amount of oxides of nitrogen allowances greater than or equal to the number requested, then the department shall allocate the amount of the CAIR NO_x ozone season allowances requested.

(ii) If the allocation hardship set-aside pool for the CAIR NO_x ozone season control period for which CAIR NO_x ozone season allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, then the department shall proportionately reduce the number of CAIR NO_x ozone season allowances allocated to each CAIR NO_x ozone season unit so that the total number of CAIR NO_x ozone season allowances allocated are equal to the amounts in R 336.1822(1)(a)(v) or (b)(v).

(3) The department shall allocate CAIR NO_x ozone season hardship allowances to existing EGUs and existing non-EGUs which have submitted an engineering analysis as described in the following procedures:

(a) The authorized account representative shall demonstrate to the department that the control level required pursuant to this rule results in excessive or prohibitive cost for compliance. The demonstration shall include all of the following:

(i) An engineering study analyzing all control options that are technically available for the unit, including control options that would achieve a level of control meeting, at a minimum, the levels as specified in subparagraphs (A), (B), and (C) of this paragraph. Sources that previously submitted an engineering analysis and received hardship allowances pursuant to R 336.1810(4)(f) for the oxides of nitrogen budget program may submit written updates to their previous plan.

(A) A NO_x emission rate of 0.15 pound per million Btu for EGUs during the 2010 through 2014 time period.

(B) A NO_x emission rate of 0.125 pound per million Btu for EGUs from 2015 and beyond.

(C) A NO_x emission rate of 0.17 pound per million Btu for non-EGUs.

(ii) The annualized cost associated with each control option. An annualized cost of more than \$2,400 per ton of oxide of nitrogen reduced shall generally be considered to be an excessive cost for compliance with this rule.

(iii) Other considerations that contribute to prohibitive cost of compliance.

(b) For a source to remain eligible for hardship allowances under this rule after the initial 3-year allocation period, ending on September 30, 2011, the state may require a revised engineering analysis and demonstration as referenced in subrule (3)(a) of this rule, at a minimum of once every 3 years.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1825 CAIR NO_x ozone season trading program; renewable set-aside.

Rule 825. (1) The department shall establish a renewable allocation set-aside pool for each CAIR NO_x ozone season control period for applicable units starting in 2010. This renewable set-aside pool shall be allocated on a yearly basis and contain a total of 200 tons of oxides of nitrogen allowances per allocation year.

(2) An authorized account representative of a renewable energy source or renewable energy project, as defined under R 336.1803(3), may request a CAIR NO_x ozone season allowance allocation under this rule.

(3) Once an authorized account representative of a renewable energy source or renewable energy project has requested allowances from the CAIR NO_x ozone season budget, the department shall allocate CAIR NO_x ozone season renewable

Annual Administrative Code Supplement
2007 Edition

allowances under the following procedures:

(a) The oxides of nitrogen allowance allocation request shall be submitted before March 1 of the year of the first ozone control period for which the oxides of nitrogen allowance allocation is requested and after the date on which the department issues a permit to install for the unit, if required, and each following year by March 1.

(b) The allocation methodology used for the first ozone season for which each renewable energy source or renewable energy project requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NO}_x}{\text{MWh}} \times \frac{\text{Size of unit in MW} \times \text{hours of operation}}{2000 \text{ lb / ton}} \times 70\%$$

Where:

Allocation =	The unadjusted NO _x allowance allocation, in tons.
1.0 lb NO _x /MWh =	The factor for allocating NO _x allowances based on gross electric generation.
Size of the unit =	The nameplate capacity, as defined in the CAIR NO _x program, of the renewable energy source or renewable energy project in megawatts.
Hours of Operation =	Predicted hours of operation per control period.
MWh =	Megawatt hours.

(c) The allocation methodology used for the each consecutive ozone season for which the renewable energy source or renewable energy project requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NO}_x}{\text{MWh}} \times \frac{\text{Actual Megawatt hours}}{2000 \text{ lb / ton}}$$

Where:

Allocation =	The unadjusted NO _x allowance allocation, in tons.
1.0 lb NO _x /MWh =	The factor for allocating NO _x allowances based on electric generation.
Actual megawatt hours =	The actual megawatt hours of electricity generated during the control period immediately preceding the request.
MWh =	Megawatt hours.

(4) The renewable energy source or renewable energy project's eligibility for allowances shall begin not sooner than the calendar year 2005.

(5) An individual renewable energy source alone or as part of a renewable energy project may only receive allowances for 3 consecutive ozone seasons.

(6) CAIR NO_x ozone season allowances not allocated or requested that remain in the renewable allocation set-aside pool for any allocation year shall be re-allocated to the existing EGU and non-EGU source pools, using the allocation methodologies as outlined in Rule 822 and based on a ratio of the number of allowances remaining in the pool and the number of allowances in the EGU's and non-EGU's budget.

(7) If the renewable allocation set-aside pool for the CAIR NO_x ozone season control period for which CAIR NO_x ozone season allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, then the department shall proportionately reduce the number of CAIR NO_x ozone season allowances allocated to each CAIR NO_x ozone season unit requesting such allowances, so that the total number of CAIR NO_x ozone season allowances allocated are equal to the amounts in R 336.1822(1)(a)(iv) or (b)(iv).

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1826 CAIR NO_x ozone season trading program; opt-in provisions.

Rule 826. The opt-in provisions in 40 C.F.R. §§97.380 to 97.388 are adopted by reference in R 336.1802a and are applicable to this rule.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1830 CAIR NO_x annual trading program; allowance allocations.

Rule 830. (1) The CAIR NO_x annual trading program budget allocated by the department for the CAIR NO_x annual control periods shall annually equal the total number of tons of oxides of nitrogen emissions as follows and apportioned to the CAIR NO_x EGUs, as determined by the procedures in this rule. These allocations shall be distributed in the following manner:

(a) The total CAIR NO_x annual budget for the annual control periods of 2009 to 2014 is 65,304 tons. These allocations shall

Annual Administrative Code Supplement
2007 Edition

be distributed in the following manner:

- (i) The CAIR NOx annual budget available to existing EGUs as follows:
 - (A) For the 2009 through 2011 annual control periods is 63,104.
 - (B) For the 2012 through 2014 annual control periods is 62,704.
- (ii) The CAIR NOx annual budget available to new EGUs as follows:
 - (A) For the 2009 through 2011 annual control periods is 1,000 tons.
 - (B) For the 2012 through 2014 annual control periods is 1,400 tons.
- (iii) The CAIR NOx annual budget available to all existing EGUs that have submitted an acceptable demonstration of a hardship to the department, in the 2009 to 2014 annual control periods is 1,200 tons.
- (b) The total CAIR NOx annual budget for the annual control periods of 2015 and thereafter is 54,420 tons. These allocations shall be distributed as follows:
 - (i) The CAIR NOx annual budget available for existing EGUs in the 2015 and thereafter annual control periods is 51,820 tons.
 - (ii) The CAIR NOx annual budget available for new EGUs in the 2015 and thereafter annual control periods is 1,400 tons.
 - (iii) The CAIR NOx annual budget available to all existing EGUs that have submitted an acceptable demonstration of a hardship to the department, in the 2015 and thereafter annual control periods is 1,200 tons.
- (2) The department shall allocate CAIR NOx annual budget allowances to existing EGUs. A 3-year allocation is 2 and 3 years in advance of the 2009 and 2010 annual control period, respectively, and 4 years in advance of each subsequent annual control period. The 3-year allocation shall be as follows:
 - (a) By 60 days after the effective date of this rule or April 30, 2007, whichever is earlier, the department shall submit to the U.S. environmental protection agency the CAIR NOx annual allowance allocations, under subrule (3) of this rule, for the annual control periods in 2009, 2010, and 2011.
 - (b) By October 31, 2008, the department shall submit to the U.S. environmental protection agency the CAIR NOx annual allowance allocations, under subrule (3) of this rule, for the annual control periods in 2012, 2013, and 2014.
 - (c) By October 31, 2011, and thereafter each October 31 of the year that is 3 years after the last year of allocation submittal, the department shall submit to the U.S. environmental protection agency the CAIR NOx annual allowance allocations as indicated under subrule (3) of this rule.
- (3) For the CAIR NOx annual control periods under subrules (1)(a) and (b) of this rule, the department shall allocate allowances to existing EGU units that commenced operation before January 1 of the most recent year of the 5-year period used to calculate heat input. The department shall allocate the following allowances to each existing EGU:
 - (a) During calendar years 2009 to 2014:
 - (i) Units with an allowable NOx emission rate equal to or greater than the CAIR target budget rate of 0.15 pounds per million Btu shall receive an initial unadjusted allocation of allowances in an amount equaling 0.15 pounds per million Btu multiplied by the appropriate fuel adjustment factor and multiplied by the heat input as determined under subrule (4) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.
 - (ii) Units with an allowable emission rate less than the CAIR target budget rate of 0.15 pounds per million Btu shall receive allowances determined by calculating the arithmetic average of the CAIR target emission rate multiplied by the appropriate fuel adjustment factor plus the unit's allowable emission rate, which is then multiplied by the heat input as determined under subrule (4) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

$$Allocation = \left[\frac{\left\{ \frac{(CTER \times FAF) + AER}{2} \right\} \times HI}{2000 \text{ lb / ton}} \right]$$

Where:

- Allocation = The unadjusted NOx allowance allocation, in tons.
- CTER = The CAIR target emission rate for 2009 through 2014.
- FAF = Fuel adjustment factor as defined in R 336.1821.
- AER = The unit's allowable emission rate of 0.15 pounds per mm Btu.
- HI = Average of the unit's 2 highest heat inputs in mm Btu for the appropriate 5 control periods.

(b) During calendar years 2015 and thereafter, the following apply:

- (i) Units with an allowable NOx emission rate equal to or greater than the CAIR target budget rate of 0.125 pounds per

Annual Administrative Code Supplement
2007 Edition

million Btu shall receive an initial unadjusted allocation of allowances in an amount equaling 0.125 pounds per million Btu multiplied by the appropriate fuel adjustment factor and multiplied by the heat input as determined under subrule (4) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

(ii) Units with an allowable emission rate less than the CAIR target budget rate of 0.125 pounds per million Btu shall receive allowances determined by calculating the arithmetic average of the CAIR target emission rate multiplied by the appropriate fuel adjustment factor plus the unit's allowable emission rate, which is then multiplied by the heat input as determined under subrule (4) of this rule, divided by 2,000 pounds per ton, and rounded to the nearest whole oxides of nitrogen allowance, as appropriate.

$$Allocation = \left[\frac{\left\{ \frac{(CTER \times FAF) + AER}{2} \right\} \times HI}{2000 \text{ lb / ton}} \right]$$

Where:

Allocation = The unadjusted NOx allowance allocation, in tons.
 CTER = The CAIR target emission rate for 2015 and thereafter.
 FAF = Fuel adjustment factor as defined in R 336.1821.
 AER = The unit's allowable emission rate of 0.125 pounds per mm Btu.
 HI = Average of the unit's 2 highest heat inputs in mm Btu for the appropriate 5 control periods.

(4) The heat input, in million Btu's, used for calculating oxides of nitrogen allowance allocations for each subject unit under this rule shall be the unit's average of the 2 highest heat inputs for the annual control period in the 5 years immediately preceding the year in which the department is required to submit the oxide of nitrogen allocations. If the unit operated less than 2 years of the 5-year time period, then the unit's single highest heat input shall be used.

(5) If the initial total number of CAIR NOx annual budget allowances allocated to all existing EGUs for the years under subrule (3) of this rule does not equal the budgeted tons for such units as specified in subrule (1) of this rule, then the department shall adjust up or down the total number of CAIR NOx annual budget allowances allocated to each existing EGU so that the total number of CAIR NOx annual budget allowances allocated to the entire group of EGUs equals the appropriate value in subrule (1) of this rule. The adjustment shall be made by multiplying each unit's unadjusted initial allocation by a correction factor determined by dividing the appropriate existing EGU total annual budget tons from subrule (1) of this rule by the sum of all existing EGU's initial unadjusted allocations, and rounding to the nearest whole ton, as appropriate.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1831 New EGUs under CAIR NOx annual trading program; allowance allocations.

Rule 831. (1) The department shall establish a set-aside pool for each CAIR NOx annual control allocation year. This set-aside pool shall be allocated on a yearly basis as follows:

(a) For years 2009 to 2011, a total of 1,000 tons of CAIR NOx annual budget allowances available for new EGUs.

(b) For years 2012 and thereafter, a total of 1,400 tons of CAIR NOx annual budget allowances available for new EGUs.

(2) The CAIR authorized account representative of a new EGU under this rule may submit to the department a written request, in a format specified by the department, to receive CAIR NOx annual allowances, starting with the annual control period during which the EGU commenced or is projected to commence operation and ending with the control period preceding the control period for which it shall receive an allocation under R 336.1830.

(a) The oxides of nitrogen allowance allocation request shall be submitted before September 1 of the year of the first annual control period for which the allowance allocation is requested and after the date on which the department issues a permit to install for the new EGU, if required, and each following year by September 1.

(b) The allocation methodology used for the first annual control period for which each new EGU requests allowances shall be calculated using the following formula:

$$Allocation = \frac{1.0 \text{ lb NOx}}{\text{MWh}} \times \frac{\text{Size of unit in MW} \times \text{hours of operation}}{2000 \text{ lb / ton}} \times 70\%$$

Where:

Allocation = The unadjusted NOx allowance allocation, in tons.

Annual Administrative Code Supplement
2007 Edition

1.0 lb NO _x /MWh =	The factor for allocating NO _x allowances based on gross electric generation.
Size of the unit =	The nameplate capacity, as defined in the CAIR NO _x program, of the EGU in megawatts.
Hours of operation =	Predicted hours of operation per control period.
MWh =	Megawatt hours.

(c) The allocation methodology used for each consecutive annual control period for which each new EGU requests allowances shall be calculated using the following formula:

$$\text{Allocation} = \frac{1.0 \text{ lb NO}_x}{\text{MWh}} \times \frac{\text{Actual Megawatt hours}}{2000 \text{ lb / ton}}$$

Where:

Allocation =	The unadjusted NO _x allowance allocation, in tons.
1.0 lb NO _x /MWh =	The factor for allocating NO _x allowances based on gross electric generation.
Actual megawatt hours =	The actual megawatt hours of electricity generated during the control period immediately preceding the request.
MWh =	Megawatt hours.

(d) Once the new EGU has been placed in the existing pool, the calculation methods under R 336.1830 apply.

(3) The department shall review and allocate oxides of nitrogen allowances pursuant to each allocation request on a pro rata basis as follows:

(a) Upon receipt of the CAIR NO_x unit's allowance allocation request, the department shall determine whether allowances are available and shall make necessary adjustments to the request to ensure that for the CAIR NO_x annual control period, the numbers of allowances specified are consistent with the requirements of subrule (1) of this rule.

(b) If the allocation set-aside pool for the CAIR NO_x annual control period for which CAIR NO_x annual budget allowances are requested has an amount greater than or equal to the number requested, as adjusted under subdivision (a) of this subrule, then the department shall allocate the amount of the CAIR NO_x annual budget allowances requested.

(c) If the allocation set-aside pool for the CAIR NO_x annual control period for which CAIR NO_x annual budget allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, as adjusted under subdivision (a) of this subrule, then the department shall proportionately reduce the number of CAIR NO_x annual budget allowances allocated to each CAIR NO_x unit so that the total number of CAIR NO_x annual budget allowances allocated are equal to the amounts referenced in subrule (1)(a) or (b) of this rule.

(4) CAIR NO_x annual allowances not allocated or requested that remain in the new source set-aside pool for any allocation year shall be re-allocated to the existing EGU source pool, using the allocation methodologies as outlined in R 336.1830.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1832 CAIR NO_x annual trading program; hardship set-aside.

Rule 832. (1) After the provisions of R 336.1830 have been followed, an owner or operator may pursue a request for hardship allowances. These requests must be submitted not later than 30 days prior to the deadline for department submittals to the U.S. environmental protection agency as described in R 336.1830.

(2) For existing EGUs subject to the CAIR NO_x annual budget, the department shall allocate CAIR NO_x hardship allowances under the following procedures:

(a) The department shall establish a hardship allocation set-aside pool for each CAIR NO_x annual allocation year for existing EGUs. This hardship set-aside pool shall be allocated on a yearly basis and contains 1,200 tons of CAIR NO_x annual allowances per allocation year.

(b) Hardship allowances may be allocated to an EGU if the requesting authorized account representative demonstrates both of the following:

(i) The owner or operator of the EGU has less than 250 employees within its company or its electric generating division or department.

(ii) The controls required for the EGU under this part result in excessive or prohibitive costs for compliance, pursuant to the procedures in subrule (3) of this rule.

(c) The CAIR authorized account representative of a CAIR NO_x unit under this rule may submit to the department a written request, in a format specified by the department, to receive CAIR NO_x annual hardship allowances. The authorized account representative shall submit the request for the amount of estimated hardship allowances they need, using historical annual

Annual Administrative Code Supplement
2007 Edition

heat input utilization levels multiplied by historical oxides of nitrogen emission rates, in the following manner:

- (i) Historical heat input utilization levels shall be based on the unit's average of the 2 highest heat input utilization levels for the annual control period in the 5 years immediately preceding the year in which the department is required to submit the oxides of nitrogen allocations to the U.S. environmental protection agency. If the unit operated less than 2 years during the 5-year time period, then the unit's single highest heat input level shall be used.
- (ii) Historic oxides of nitrogen rates shall be based on the oxides of nitrogen rate reported by the authorized account representative in its 40 C.F.R. part 75 reports to the U.S. environmental protection agency in the calendar year immediately preceding the year in which the department is required to submit the oxides of nitrogen allocation.
- (iii) Units receiving hardship allowances shall receive a 3-year allocation that is 2 and 3 years in advance of the 2009 and 2010 annual control periods, respectively, and 4 years in advance of each subsequent annual control period. The 3-year allocation shall be the same as provided in R 336.1830(2).
- (d) The department shall allocate the allowances based on the requests received as follows:
 - (i) If the allocation hardship set-aside pool for the CAIR NO_x annual control period for which CAIR NO_x annual allowances are requested has an amount of oxides of nitrogen allowances greater than or equal to the number requested, then the department shall allocate the amount of the CAIR NO_x annual budget allowances requested.
 - (ii) If the allocation hardship set-aside pool for the CAIR NO_x annual control period for which CAIR NO_x annual allowances are requested has an amount of oxides of nitrogen allowances less than the number requested, then the department shall proportionately reduce the number of CAIR NO_x annual allowances allocated to each CAIR NO_x annual unit so that the total number of CAIR NO_x annual allowances allocated are equal to the amounts referenced in subdivision (a) of this subrule.
- (3) The department shall allocate CAIR NO_x annual hardship allowances to existing EGUs which have submitted an engineering analysis as described as follows:
 - (a) The authorized account representative shall demonstrate to the department that the control level required pursuant to this rule results in excessive or prohibitive cost for compliance. The demonstration shall include all of the following:
 - (i) An engineering study analyzing all control options that are technically available for the unit, including control options that would achieve a level of control meeting, at a minimum, a 0.15 pound per million Btu emission rate.
 - (ii) The annualized cost associated with each control option. An annualized cost of more than \$2,400 per ton of oxides of nitrogen reduced shall generally be considered to be an excessive cost for compliance with this rule.
 - (iii) Other considerations that contribute to prohibitive cost of compliance.
 - (b) For a source to remain eligible for hardship allowances under this rule after the initial 3-year allocation period, ending on December 31, 2011, the state may require a revised engineering analysis and demonstration as detailed under subrule (3)(a) of this rule, at a minimum of once every 3 years.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1833 CAIR NO_x annual trading program; compliance supplement pool.

Rule 833. (1) The department shall allow sources required to implement CAIR NO_x control measures by January 1, 2009, and subject to this rule to demonstrate compliance using allowances issued from the compliance supplement pool under this rule, as follows:

- (a) The total number of CAIR NO_x allowances available to existing EGUs, for early reduction purposes from the compliance supplement pool, shall not be more than 6,491 tons of oxides of nitrogen.
 - (b) The total number of CAIR NO_x allowances available for the newly-affected EGUs, for hardship purposes from the compliance supplement pool, shall not be more than 1,856 tons of oxides of nitrogen.
 - (c) Any CAIR NO_x allowances that remain in the compliance supplement pool after the 2009 control period shall be retired.
 - (d) Sources that receive allowances according to the requirements of this rule may trade the allowance to other sources or persons according to the provisions in the CAIR NO_x annual trading program.
- (2) The department shall issue early reduction allowances to existing EGUs as follows:
- (a) The emissions reduction shall not be required by Michigan's state implementation plan, state law, or rule, or be otherwise required by federal law.
 - (b) The emissions reduction shall be verified by the source as actually having occurred during the calendar years of 2007 and 2008.
 - (c) Each CAIR NO_x unit for which the owner or operator requests any early reduction allowances under this rule shall monitor oxides of nitrogen emissions under 40 C.F.R. part 75, subpart H, which are adopted by reference in R 336.1802a, starting not less than 1 calendar year before the annual control period for which the early reduction allowances are requested. The unit's monitoring system availability shall be not less than 90 percent during the control period in which monitoring occurs for this purpose and the unit shall be in compliance with any applicable state or federal emissions or emissions-related requirements.

Annual Administrative Code Supplement
2007 Edition

- (d) The emissions reduction shall be quantified according to procedures set forth in 40 C.F.R. part 75, subpart H.
- (e) The emissions reduction request shall include both of the following:
- (i) The CAIR NO_x authorized account representative may request early reduction allowances for the annual control period in an amount equal to the unit's heat input for the year, multiplied by the difference between the rates in both of the following provisions, divided by 2,000 pounds per ton, and rounded to the nearest ton:
- (A) The oxides of nitrogen emission limit required by Michigan's state implementation plan, otherwise required by the clean air act, or 0.25 pound per million Btu heat input, whichever is most stringent.
- (B) The unit's actual oxides of nitrogen emission rate for the 2007 and 2008 calendar years, which shall be lower than the rate used in subparagraph (A) of this paragraph and less than 80% of the actual 2005 annual oxides of nitrogen emission rate, expressed as pound per million Btu heat input.
- (ii) The early reduction allowance request shall be submitted in writing, in a format specified by the department, not later than July 1, 2009, for the 2007 and 2008 control periods.
- (f) The department shall allocate CAIR NO_x allowances to CAIR NO_x units meeting the requirements of this subdivision and requesting early reduction allocations, in the following manner:
- (i) Upon receipt of each early reduction allowance request, the department shall accept the request only if the requirements of subdivisions (a) to (e) of this subrule are met and, if the request is accepted, shall make any necessary adjustments to the request to ensure that the amount of the early reduction allowances requested meets the requirement of subdivisions (a) to (e) of this subrule.
- (ii) If the compliance supplement pool has an amount of CAIR NO_x allowances equal to or greater than the number of early reduction allowances in all accepted early reduction allowance requests for 2007 and 2008, as adjusted under paragraph (i) of this subdivision, the department shall allocate to each CAIR NO_x unit covered by the accepted requests 1 allowance for each early reduction allowance requested, as adjusted under paragraph (i) of this subdivision.
- (iii) If the compliance supplement pool has an amount of CAIR NO_x allowances less than the number of early reduction allowances in all accepted early reduction allowance requests for 2007 and 2008, as adjusted under paragraph (i) of this subdivision, the department shall allocate CAIR NO_x allowances to each CAIR NO_x unit covered by the accepted requests according to the following formula and rounding to the nearest whole allowance as appropriate:

$$\text{Allocated ERC} = \left(\frac{\text{Units ERC requested}}{\text{Total requested ERC}} \right) \times \text{Available CAIR NO}_x \text{ Allowances}$$

Where:

ERC =	Early reduction allowances.
Allocated ERCs =	Each unit's allocated early reduction allowances.
Total requested ERCs =	The total amount of ERCs requested by all units from the compliance supplement pool.
Available CAIR NO _x Allowances =	The total amount of allowances available from the early reduction portion of the compliance supplement pool.

- (3) The department shall issue hardship allowances to newly-affected EGUs for which compliance with the CAIR NO_x emissions limitations would create an undue risk to the reliability of electricity supply during the 2009 control period. The CAIR NO_x authorized account representative of the newly-affected EGU may request the allocation of CAIR NO_x allowances from the compliance supplement pool under subrule (1)(b) of this rule, pursuant to the following:
- (a) The CAIR NO_x authorized account representative shall submit to the department by July 1, 2009, a written request, in a format specified by the department, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the minimum amount of CAIR NO_x allowances necessary to remove the undue risk to the reliability of electricity supply.
- (b) The CAIR NO_x authorized account representative shall demonstrate that, in the absence of allocation of the amount of CAIR NO_x allowances requested, the unit's compliance with the CAIR NO_x emissions limitation for the 2009 control period would create an undue risk to the reliability of electricity supply during the 2009 control period. This demonstration shall include both of the following:
- (i) A showing that it would not be possible for the owners and operators of the unit to obtain sufficient amounts of electricity from other electric generation facilities during the installation of control technology at the unit for compliance with the CAIR NO_x emission limitation to prevent such undue risk.
- (ii) A showing that it would not be possible for the owners and operators of the unit to obtain sufficient amounts of allowances under subrule (2) or from other sources or persons to prevent such undue risk.
- (c) The department shall review each request submitted by July 1, 2009, and allocate CAIR NO_x allowances for the 2009

Annual Administrative Code Supplement
2007 Edition

control period to requesting units as follows:

(i) Upon receipt of each hardship request, the department shall accept the request only if the requirements of subdivisions (a) and (b) of this subrule are met and, if the request is accepted, shall make any necessary adjustments to the request to ensure that the amount of the CAIR NOx hardship allowances requested meets the requirements of subdivisions (a) and (b) of this subrule.

(ii) If the compliance supplement pool has an amount of CAIR NOx hardship allowances equal to or greater than the number of CAIR NOx allowances in the hardship requests, the department shall allocate to each CAIR NOx unit the amount of CAIR NOx allowances requested, as adjusted under paragraph (i) of this subdivision.

(iii) If the compliance supplement pool has an amount of CAIR NOx allowances less than the number of hardship allowances in all accepted hardship requests, as adjusted under paragraph (i) of this subdivision, the department shall allocate CAIR NOx allowances to each CAIR NOx unit covered by the accepted requests according to the following formula and rounding to the nearest whole allowance as appropriate:

$$\text{Adjusted Allocation} = \text{Requested Allocation} \times \left(\frac{\text{Available Pool Allocations}}{\text{Total adjusted allocation for all units}} \right)$$

Where:

Adjusted allocation =	The number of CAIR NOx hardship allowances allocated to the unit from the state's compliance supplement pool.
Requested allocation =	The amount of CAIR NOx hardship allowances requested for the unit.
Available pool allocations =	The amount of CAIR NOx hardship allowances in the state's compliance supplement pool.
Total adjusted allocations for all units =	The sum of the amounts of hardship allocations requested for all units, as adjusted.

(4) The department shall complete its review process not later than September 1, 2009. By November 30, 2009, the department shall determine, and submit to the U.S. environmental protection agency, the allocations under subrules (2) or (3) of this rule.

History: 2007 MR 12, Eff. June 25, 2007.

R 336.1834 Opt-in provisions under the CAIR NOx annual trading program.

Rule 834. The opt-in provisions in 40 C.F.R. §§97.180 through 97.188 are adopted by reference in R 336.1802a and are applicable to this rule.

History: 2007 MR 12, Eff. June 25, 2007.

PART 9. EMISSION LIMITATIONS AND PROHIBITIONS—MISCELLANEOUS

R 336.1901

Source: 2002 AACS.

R 336.1906

Source: 2002 AACS.

R 336.1910

Source: 1980 AACS.

R 336.1911

Source: 2002 AACS.

R 336.1912

Source: 1995 AACS.

R 336.1913

Source: 2001 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.1914
Source: 2001 AACS.

R 336.1915
Source: 2002 AACS.

R 336.1916
Source: 2002 AACS.

R 336.1930
Source: 2002 AACS.

R 336.1931
Source: 2002 AACS.

R 336.1932
Source: 2002 AACS.

R 336.1933
Source: 1998-2000 AACS.

R 336.1940
Source: 1998-2000 AACS.

R 336.1941
Source: 1998-2000 AACS.

R 336.1942
Source: 1998-2000 AACS.

PART 10. INTERMITTENT TESTING AND SAMPLING

R 336.2001
Source: 2002 AACS.

R 336.2002
Source: 2002 AACS.

R 336.2003
Source: 2002 AACS.

R 336.2004
Source: 2006 AACS.

R 336.2005
Source: 2006 AACS.

R 336.2006
Source: 1993 AACS.

R 336.2007
Source: 2002 AACS.

R 336.2010
Source: 1997 AACS.

R 336.2011

Annual Administrative Code Supplement
2007 Edition

Source: 2005 AACS.

R 336.2012

Source: 2002 AACS.

R 336.2013

Source: 2002 AACS.

R 336.2014

Source: 2002 AACS.

R 336.2021

Source: 2002 AACS.

R 336.2030

Source: 1985 AACS.

R 336.2031

Source: 1985 AACS.

R 336.2032

Source: 1985 AACS.

R 336.2033

Source: 1985 AACS.

R 336.2040

Source: 2002 AACS.

R 336.2041

Source: 2002 AACS.

PART 11. CONTINUOUS EMISSION MONITORING

R 336.2101

Source: 2002 AACS.

R 336.2102

Source: 1980 AACS.

R 336.2103

Source: 1980 AACS.

R 336.2150

Source: 2002 AACS.

R 336.2151

Source: 1989 AACS.

R 336.2152

Source: 1980 AACS.

R 336.2153

Source: 1989 AACS.

R 336.2154

Source: 1980 AACS.

R 336.2155

Annual Administrative Code Supplement
2007 Edition

Source: 2002 AACS.

R 336.2159

Source: 2002 AACS.

R 336.2170

Source: 2002 AACS.

R 336.2175

Source: 2002 AACS.

R 336.2176

Source: 1989 AACS.

R 336.2189

Source: 2002 AACS.

R 336.2190

Source: 2002 AACS.

R 336.2199

Source: 1997 AACS.

PART 12. EMISSION AVERAGING AND EMISSION REDUCTION CREDIT TRADING

R 336.2201 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2202 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2203 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2204 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2205 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996 ; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2206 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2207 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2208 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2209 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2210 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2211 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

Annual Administrative Code Supplement
2007 Edition

R 336.2212 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2213 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2214 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2215 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2216 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2217 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

R 336.2218 Rescinded.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999; rescinded MR 22, Eff. Nov. 26, 2007.

PART 13. AIR POLLUTION EPISODES

R 336.2301

Source: 1997 AACS.

R 336.2302

Source: 1997 AACS.

R 336.2303

Source: 1997 AACS.

R 336.2304

Source: 1997 AACS.

R 336.2305

Source: 1997 AACS.

R 336.2306

Source: 1997 AACS.

R 336.2307

Source: 1997 AACS.

R 336.2308

Source: 1997 AACS.

PART 14. CLEAN CORPORATE CITIZEN PROGRAM

R 336.2401

Source: 1998-2000 AACS.

R 336.2402

Source: 1998-2000 AACS.

Annual Administrative Code Supplement
2007 Edition

R 336.2403
Source: 1998-2000 AACS.

R 336.2404
Source: 1998-2000 AACS.

R 336.2405
Source: 1998-2000 AACS.

R 336.2406
Source: 1998-2000 AACS.

R 336.2407
Source: 1998-2000 AACS.

R 336.2408
Source: 1998-2000 AACS.

R 336.2409
Source: 1998-2000 AACS.

R 336.2412
Source: 1998-2000 AACS.

R 336.2413
Source: 1997 AACS.

R 336.2414
Source: 1997 AACS.

R 336.2415
Source: 1997 AACS.

R 336.2420
Source: 1998-2000 AACS.

PART 16. ORGANIZATION, OPERATION, AND PROCEDURES

R 336.2601
Source: 1997 AACS.

R 336.2602
Source: 1997 AACS.

R 336.2603
Source: 1997 AACS.

R 336.2604
Source: 1997 AACS.

R 336.2605
Source: 1997 AACS.

R 336.2606
Source: 1980 AACS.